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The Road to Abscam
James Q. Wilson

Housing Allowances: An Experiment That Worked — *Bernard J. Frieden*

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SPRING BOOKS: A SPECIAL SUPPLEMENT
Reviews by Robert H. Bork, Robert S. Pindyck, Roger Starr, William Kristol, Michael Cornfield, Michael Nelson, and Michael S. Lund

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The changing FBI — The road to Abscam

JAMES Q. WILSON

It is inconceivable that J. Edgar Hoover would ever have investigated members of Congress to gather evidence for possible prosecution. Hoover's FBI learned a great deal about congressmen, and may have gone out of its way to collect more information than it needed, but all this would have been locked discreetly away, or possibly leaked, most privately, to a President or attorney general whose taste for gossip Hoover wished to gratify or whose personal loyalty he wished to assure. The Bureau's shrewd cultivation of congressional and White House opinion, effective for decades, was in time denounced as evidence that the FBI was "out of control," immune from effective oversight.

Today, of course, the Bureau is again being criticized, albeit circumspectly, by various congressmen who complain of the manner (and possibly also the fact) of its investigation of possible legislative bribery. Congressmen wonder whether the FBI is launched on a "vendetta" against its erstwhile allies turned critics. Once again there are angry mutterings that the Bureau is "out of control," this time because it is using its most powerful technique—undercover operations—to discover whether congressmen are corrupt.

It would be tempting to ascribe the changes in the Bureau's relations with Congress to nothing more than personal pique amplified

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into organizational vengeance. After years of congressional adulation of Hoover and the FBI, the mood suddenly turned nasty with revelations of how far the Bureau was prepared to go in using its investigative powers to maintain political support. The list of Bureau excesses is long, familiar, and dismaying; the wrath visited upon it by several congressional committees combined a proper outrage at abuse of power with a hint of romance gone sour. For the FBI now to turn on those who had turned on it would be precisely the sort of thing one might suppose a Hoover-style agency might relish.

This is not what has happened. No doubt there are some FBI agents who are enjoying the sight of congressmen scurrying for cover, but that was not the motive for "Operation Abscam." The Bureau has in fact changed, and changed precisely in accordance with the oft-expressed preferences of Congress itself. Congressional and other critics complained that the Bureau in the 1960's was not only violating the rights of citizens, it was wasting its resources and energies on trivial cases and meaningless statistical accomplishments. Beginning with Director Clarence Kelley, the Bureau pledged that it would end the abuses and redirect its energies to more important matters. This is exactly what has happened.

This rather straightforward explanation is hard for official Washington to accept, and understandably so. Bureaucracies are not supposed to change, they are only supposed to claim to have changed. It tests the credulity of a trained congressional cynic to be told that a large, complex, rule-bound organization such as the FBI would or could execute an about-face.

But the FBI is not just any bureaucracy, and never has been. Next to the Marine Corps, it is probably the most centrally controlled organization in the federal government. Its agents do not have civil service or union protection, its disciplinary procedures can be swift and draconian, and despite recent efforts to decentralize some decision making, the director himself, or one of his immediate subordinates, personally approves an astonishingly large proportion of all the administrative decisions made in the Bureau. Not long ago, a decision to install sanitary-napkin dispensers in women's lavoratories in Bureau headquarters could not be made until Director William Webster endorsed the recommendation. FBI agents have complained for decades about the heavy-handed supervision they received from headquarters; though that has begun to change, the visit of an inspection team to an FBI field office continues to instill apprehension bordering on terror in the hearts of

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the local staff. The inspectors sometimes concentrate on the minutiae at the expense of the important, but whatever its defects, nit-picking insures that field offices will conform to explicit headquarters directives pertaining to observable behavior.

But even for the Bureau, the change in investigative strategy that culminated in Operation Abscam was no easy matter. For one thing, much of what the Bureau does is not easily observable and thus not easily controlled by inspection teams and headquarters directives. Law enforcement occurs on the street in low-visibility situations that test the judgment and skill of agents but do not lend themselves to formal review. Many laws the FBI enforces–particularly those pertaining to consensual crimes such as bribery–place heavy reliance on the skill and energy of agents and field supervisers who must find ways of discovering that a crime may have been committed before they can even begin the process of gathering evidence that might lead to a prosecution. Relations between an agent and an informant often lie at the heart of the investigative effort, but these are subtle, complex, and largely unobservable. Finally, what the Bureau chooses to emphasize is not for it alone to decide. The policies of the local United States Attorney, who though nominally an employee of the Justice Department is in reality often quite autonomous, determine what federal cases will be accepted for prosecution and thus what kinds of offenses the local FBI office will emphasize.

Changing the Bureau

Given these difficulties, the effort to change the investigative priorities of the Bureau was a protracted, controversial, and difficult struggle. Several things had to happen: New policies had to be stated, unconventional investigative techniques had to be authorized, organizational changes had to be made, and new incentives had to be found.

As is always the case, stating the new policies was the easiest thing to do. Attorney General Edward Levi and Director Kelley pledged that the Bureau would reduce its interest in domestic security cases, especially of the sort that led to such abuses as COINTELPRO, and in the investigation of certain routine crimes (such as auto theft or small thefts from interstate shipments) that had for years generated the impressive statistics that Hoover was fond of reciting. The domestic security cases were constitutionally and politically vulnerable; the criminal cases that produced evi-

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dence of big workloads but few significant convictions were unpopular among the street agents. The man Kelley brought in to close down virtually all the domestic security investigations was, ironically, Neil Welch, then in charge of the Bureau's Philadelphia office and later to be in charge of the New York office and of Operation Abscam. In a matter of months, thousands of security cases were simply terminated; hundreds of security informants were let go; domestic security squads in various field offices were disbanded and their agents assigned to other tasks. New attorney-general guidelines clarified and narrowed the circumstances under which such cases could be opened in the future. The number of FBI informants in organizations thought to constitute a security risk became so small that it was kept secret in order, presumably, to avoid encouraging potential subversives with the knowledge that they were, in effect, free to organize without fear of Bureau surveillance.

Kelley also announced a "quality case program" authorizing each office to close out pending investigative matters that had little prosecutive potential and to develop priorities that would direct its resources toward important cases. Almost overnight, official Bureau caseloads dropped precipitously, as field offices stopped pretending that they were investigating (and in some cases, actually stopped investigating) hundreds of cases—of auto thefts, bank robberies, and thefts from interstate commerce and from government buildings—where the office had no leads, the amounts stolen were small, or it was believed (rightly or wrongly) that local police departments could handle the matter.*

Headquarters made clear what it regarded as the "priority" cases that the field should emphasize: white-collar crime, organized crime, and foreign counterintelligence. But saying that these were the priorities, and getting them to *be* the priorities, were two different things. Permitting field offices to stop reporting on high-volume, low-value cases did not automatically insure that the resources thereby saved would be devoted to, say, white-collar crime. For that to occur, some important organizational changes had to be made.

The most important of these was to reorganize the field-office squads. Traditionally, a field office grouped its agent personnel into squads based on the volume of reported criminal offenses—there would be a bank robbery squad, an interstate theft squad,

* A fuller account of these changes can be found in James Q. Wilson, *The Investigators: Managing FBI and Narcotics Agents* (Basic Books, 1978).

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an auto theft squad, and so on. These squads reacted to the incoming flow of reported crimes by assigning an agent to each case. What we now call white-collar crime was typically the province of a single unit—the "accounting squad"—composed, often, of agents with training as accountants, who would handle bank complaints of fraud and embezzlement. Occasionally, more complex cases involving fraud would be developed; many offices had individual agents skilled at detecting and investigating elaborate political, labor, or business conspiracies. But attention to such matters was not routinized because the internal structure of a typical field office was organized around the need to respond to the reports of crimes submitted by victims. Elaborate conspiracies often produced no victims aware of their victimization or enriched the participants in ways that gave no one an incentive to call the FBI. Taxpayers generally suffer when bribes are offered and taken, and innocent investors may be victimized by land frauds, but either the citizen is unaware he is a victim or the "victim" was in fact part of the conspiracy, drawn in by greed and larcenous intent.

Again Neil Welch enters the scene. The Philadelphia office was one of the first to redesign its structure so that most of its squads had the task, not of responding to victim complaints, but of identifying ("targeting") individuals, groups, and organizations for intensive scrutiny on the grounds that they were suspected of being involved in organized crime, major conspiracies, labor racketeering, or political corruption. Though almost every FBI field office would from time to time make cases against corrupt politicians or businessmen, the cases made in Philadelphia were spectacular for their number and scope. Judges, state legislators, labor leaders, businessmen, police officers, and government officials were indicted and convicted. The more indictments that were handed down, the more nervous accomplices, frightened associates, or knowledgeable reporters would come forward to volunteer more information that spurred further investigations.

During the period when Welch and the Philadelphia office were making headlines (roughly, 1975 to 1977), the rest of the Bureau was watching and waiting. Experienced FBI officials knew that under the Hoover regime, the only safe rule was "never do anything for the first time." Taking the initiative could result in rapid promotions but it could also lead to immediate disgrace; innovation was risky. What if the allies of the powerful people being indicted (one was Speaker of the Pennsylvania House of Representatives) complained? Hoover had usually rebuffed such com-

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plaints, but you could never be certain. More important, how would Bureau headquarters react to the fact that the *number* of cases being handled in Philadelphia had dropped owing to the reassignment of agents from the regular high-volume squads to the new "target" squads? In the past, resources—money, manpower—were given to field offices that had high and rising caseloads, not to ones with declining statistics.

Kelley's response was clear—he increased the number of agents assigned to Philadelphia and gave Welch even more important responsibilities (it was at this time that Welch was brought to headquarters to oversee the winding down of the domestic security program). There were still many issues to resolve and many apprehensive supervisors to reassure, but the momentum was growing: More and more field offices began to reorganize to give structural effect to the priority-case program, and thus to an aggressive stance regarding white-collar crime.

Emphasizing priority offenses

The incentives to comply with the emphasis on priority offenses came from within and without the Bureau. Inside, the management information system was revised so that investigations and convictions were now classified by quality as well as number. The criminal offenses for which the FBI had investigative responsibility were grouped into high- and low-priority categories, and individual offenses within these categories were further classified by the degree of seriousness of the behavior under investigation (for example, thefts were classified by the amount stolen). It is far from clear that the statistics generated were used in any systematic way by Bureau headquarters—in the FBI as in many government agencies, such data are often perceived as a "numbers game" to be played and then forgotten—but at the very least these statistics reinforced the message repeated over and over again in the statements of the director, first Kelley and then William H. Webster: Go after white-collar and organized crime.

Outside the Bureau, key congressmen were pressing hard in the same direction. Nowhere was this pressure greater than in the chambers of the Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee, chaired by Congressman Don Edwards of California—who had once been, briefly, a member of the FBI. This Subcommittee had become one of the centers of congressional attacks on the Bureau. Kelley and Webster spent

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hours answering questions put by its members, who included in addition to Chairman Edwards, Elizabeth Holtzman of New York and Robert Drinan of Massachusetts. The attack on the FBI's performance began with criticism of the domestic security programs, but came to include criticisms of the Bureau's weaknesses in the area of white-collar crime. This latter concern reflected, in part, the Subcommittee members' genuine conviction that white-collar offenses were serious matters. But it also reflected the Subcommittee members' suspicion that the FBI was "soft" on "establishment" crimes while being excessively preoccupied with subversion, and thus inclined merely to go through the motions when investigating the former and to put its heart and resources into inquiries regarding the latter. Thus, getting the Bureau to emphasize white-collar crimes was not only good in itself, it was a way, the Subcommittee seemed to think, of keeping it out of domestic security work.

In 1977, staff members of the Subcommittee toured various FBI field offices and spoke as well to several U.S. Attorneys. Their report sharply criticized the FBI for continuing to devote manpower to street crimes such as bank robberies and hijacking—all of which, in the opinion of the staff, could better be handled by the local police. In some cases, the staff claimed, the FBI's idea of white-collar crime was welfare cheating and other examples of individual, and presumably small-scale, frauds against the government. The staff lamented the "reluctance on the part of FBI personnel, particularly at the supervisory level, to get involved in more complex investigations that may require significant allocation of manpower for long periods of time." And the report criticized the field offices for not mounting more undercover operations.

Whatever shortcomings the FBI may have, indifference to congressional opinion has never been one of them. The pressure inside the Bureau to develop major white-collar-crime cases mounted. The Bureau had always thoroughly investigated reported violations of federal law whatever the color of the collar worn by the suspects. Businessmen, politicians, and labor leaders had been sent to prison as a result of FBI inquiries. But most of these cases arose out of a complaint to the Bureau by a victim, followed by FBI interviews of suspects and an analysis of documents. Sometimes wiretaps were employed. The number, scope, and success of such investigations depended crucially on the skill and patience of the agents working a case. One legendary FBI agent in Boston was personally responsible for making several major corruption cases as a result of

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his tenacity, his ability to win the confidence of reluctant witnesses and accomplices, and his knowledge of complex financial transactions. But finding or producing large numbers of such agents is difficult at best. Far easier would be the development of investigative techniques that could generate reliable evidence in large amounts without having to depend solely on an agent's ability to "flip" a suspect, who then would have to testify in court against his former collaborators.

Undercover operations

One such method was the undercover operation. Narcotics agents in the Drug Enforcement Administration and in local police departments had always relied extensively on undercover agents buying illegal drugs in order to produce evidence. Traditionally, however, the FBI had shied away from these methods. Hoover had resisted any techniques that risked compromising an agent by placing him in situations where he could be exposed to adverse publicity or tempted to accept bribes. Hoover knew that public confidence in FBI agents was the Bureau's principal investigative resource and that confidence should not be jeopardized by having agents appear as anything other than well-groomed, "young executive" individuals with an impeccable reputation for integrity. From time to time, an agent would pose as a purchaser of stolen goods, but these were usually short-lived operations with limited objectives. For most purposes, the FBI relied on informants—persons with knowledge of or connections in the underworld—to provide leads that could then, by conventional investigative techniques, be converted into evidence admissible in court in ways that did not compromise the informant.

The FBI's reliance on informants rather than undercover agents had, of course, its own costs. An informant was not easily controlled, his motives often made him want to use the FBI for personal gain or revenge against rivals, and either he would not testify in court at all or his testimony would be vulnerable to attacks from defense attorneys. Moreover, it is one thing to find informants among bank robbers, jewel thieves, and gamblers with organized crime connections; it is something else again to find informants among high-level politicians, business executives, and labor leaders. An undercover operation came to be seen as a valuable supplement to the informant system: Though created with the aid of an informant, it could be staffed by FBI agents posing as thieves, fences, or businessmen,

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carefully monitored by recording equipment, used to develop hard physical evidence (such as photographs of cash payoffs), and operated so as to draw in high-level suspects whose world was not easily penetrated by conventional informants.

In 1974 the Law Enforcement Assistance Administration (LEAA) began supplying money to make possible the now-famous "Sting" operations in which stolen property would be purchased from thieves who thought they were selling to criminal fences. LEAA insisted initially that a Sting be a joint federal-local operation, and so the FBI became partners in these early ventures, thereby acquiring substantial experience in how to mount and execute an undercover effort in ways that avoided claims of entrapment. In 1977, the FBI participated in 34 Sting operations. Soon, however, the requirement of federal participation was relaxed and the Sting became almost entirely a state and local venture (albeit often with LEAA money). After all, most of the persons caught in a Sting were thieves who had violated state, but not federal, law.

The experience gained and the success enjoyed by the FBI in the Stings were now put in service of undercover operations directed at the priority crimes—especially white-collar crimes and racketeering. During fiscal year 1978, the Bureau conducted 132 undercover operations, 36 of which were aimed at white-collar crime. They produced impressive (and noncontroversial) results, and led to the indictment of persons operating illegal financial schemes, trying to defraud the government, engaging in union extortion, and participating in political corruption.

Each of these operations was authorized and supervised by FBI headquarters and by the local United States Attorney or by Justice Department attorneys (or both). Among the issues that were reviewed was the need to avoid entrapment. In general, the courts have allowed undercover operations—such as an agent offering to buy illegal narcotics—as a permissible investigative technique. In *Hampton v. United States*, the Supreme Court held in 1976 that the sale to government agents of heroin supplied to the defendant by a government informant did not constitute entrapment. In an earlier case, Justice Potter Stewart tried to formulate a general rule distinguishing a proper from an improper undercover operation: "Government agents may engage in conduct that is likely, when objectively considered, to afford a person ready and willing to commit the crime an opportunity to do so." It is noteworthy that this formulation appeared in a dissenting opinion in which Stewart argued that the case in question *had* involved entrapment; thus, it

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probably represents the opinion of many justices who take a reasonably strict view of what constitutes entrapment. As such, it affords ample opportunity for undercover operations, especially those, such as Abscam, in which lawyers can monitor agent activity on almost a continuous basis.

Congress was fully aware that the FBI was expanding its use of undercover operations. The House Appropriations Committee, as well as others, were told about these developments—without, of course, particular cases then in progress being identified. Moreover, Congress by law had to give permission for the Bureau to do certain things necessary for an undercover operation. These prerequisites to FBI undercover operations involve the right to lease buildings or to enter into contracts in ways that do not divulge the fact that the contracting party or the lessee are government agents, and that permit advance payment of funds. Indeed, one statute prohibits a government agency from leasing a building in Washington, D.C., without a specific appropriation for that purpose having first been made by Congress. If that law had been in force, the FBI would not have been able to lease the Washington house in which Operation Abscam was conducted. At the request of the FBI, however, Congress exempted the Bureau from compliance with statutes that might have impeded such operations. The proposed FBI Charter, now before Congress, would specifically authorize undercover operations and would grant a continuing exemption, whenever necessary, from the statutes governing contracts and leases.

Though the FBI learned a great deal about undercover operations by its early participation in Stings, Operation Abscam is not, strictly speaking, a Sting at all. In a Sting, a store is opened and the agents declare their willingness to buy merchandise from one and all. Much of what they buy involves perfectly legitimate sales; some of what they buy is stolen, and when that is established, the ground is laid for an arrest. Operation Abscam followed a quite different route. It resulted from the normal exploitation of an informant who had been useful in locating stolen art works. The informant apparently indicated that he could put agents in touch with politicians who were for sale; the agents accepted, and set up Abscam by having an agent pose as a wealthy Arab interested in buying political favors to assist his (mythical) business enterprises. Several important congressmen, or their representatives, were brought to the house used for Abscam and their negotiations with the agents recorded. The operation is no different in design from those used in many other cases that earned praise for the Bureau.

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What is different is that in this case congressmen were apparently involved and the operation was leaked to the press before indictments were issued.

Congress, law enforcement, and the Constitution

For congressmen to be in trouble with the law is nothing new. During the 95th Congress alone, 13 members or former members of the House of Representatives were indicted or convicted on criminal charges. Most if not all of these cases resulted from the use of conventional investigative methods—typically, a tip to a law enforcement officer or reporter by a person involved in the offense (bribery, payroll padding, taking kickbacks) who then testified against the official. Law enforcement in such cases is ordinarily reactive and thus crucially dependent on the existence and volubility of a disaffected employee, businessman, or accomplice. Operation Abscam was "proactive"—it created an opportunity for persons to commit a crime who were (presumably) ready and willing to do so.

Congress has never complained when such methods were used against others; quite the contrary, it has explicitly or implicitly urged—and authorized—their use against others. There is no small element of hypocrisy in the complaints of some congressmen that they did not mean a vigorous investigation of white-collar crime to include *them*.

But it is not all hypocrisy. It is worth discussing how such investigations should be conducted and under what pattern of accountability. An unscrupulous President with a complaisant FBI director could use undercover operations to discredit political enemies, including congressmen from a rival party. Hoover was a highly political FBI director, but he saw, rightly, that his power would be greater if he avoided investigations of Congress than if he undertook them. Clarence Kelley and William H. Webster have been sternly nonpartisan directors who would never consider allowing the Bureau's powers to be put in service of some rancid political purpose. But new times bring new men, and in the future we may again see partisan efforts to use the Bureau. What safeguards can be installed to prevent schemes to embarrass political enemies by leaked stories is worth some discussion.

But there is a dilemma here: the more extensive the pattern of accountability and control, the greater the probability of a leak. The only sure way to minimize leaks is to minimize the number of

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persons who know something worth leaking. In the case of Operation Abscam, scores of persons knew what was going on—in part because such extensive efforts were made to insure that it was a lawful and effective investigation. In addition to the dozens of FBI agents and their supervisors, there were lawyers in the Justice Department and U.S. Attorneys in New York, Newark, Philadelphia, and Washington, D.C., together with their staffs, all of whom were well informed. Any one of them could have leaked. Indeed, given their partisan sponsorship and what is often their background in political activism, U.S. Attorneys are especially likely to be sources of leaks—more so, I should surmise, than FBI agents. If, in order to prevent abuses of the Bureau's investigative powers, we increase the number of supervisors—to include, for example, members of the House or Senate ethics committees—we also increase the chances of leaks (to say nothing of other ways by which such investigations could be compromised).

In the meantime, the debate will not be helped by complaints that the Bureau has launched a "vendetta" against Congress or that it is "out of control." It is nothing of the kind. It is an organization that is following out the logic of changes and procedures adopted to meet the explicit demands of Congress.

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Housing allowances: an experiment that worked

BERNARD J. FRIEDEN

ONE of the biggest social experiments ever undertaken, the Department of Housing and Urban Development's experimental housing allowance program began with great fanfare in 1973 and is ending quietly in 1979-1980. It has involved more than 25,000 families in 12 metropolitan areas, at a cost that is expected to add up to $160 million. As is true of most ambitious programs, it owes its origin to the convergence of several different lines of thought on how government should cope with a problem. The problem in this case was how to improve housing conditions for low-income people. Two key ideas prompted the experiment. One was that the best way to help families who needed better housing was to give them money that they could use on their own, instead of building subsidized housing for them. The other was that the best way to learn how a new approach would work in practice was to conduct a large-scale social experiment, following a systematic design and using control groups to check the validity of the results.

Six years later, the data coming off the computers do not provide clear-cut answers to all the questions that were investigated, since the realities of human behavior turned out to be more complicated than the designers of the experiment had assumed. But the experi-

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ment produced unexpected results that challenge the traditional conception of low-income housing problems and reveal a sharp conflict between the priorities of federal officials and those of poor families.

Troubled subsidy programs

The underlying cause of the housing allowance experiment was widespread disillusionment with the conventional approach to subsidizing housing for the poor.* Ever since the mid-1930's, housing reformers and their political allies had favored a construction strategy. This meant using federal subsidies to build new housing which was then made available to poor people at below-market rents. A series of housing acts from 1937 through the mid-1960's had established first low-rent public housing and then several variations of it, all following essentially the same approach. Yet the flooding tide of housing legislation produced only a trickle of housing. The main problem with this strategy (as has also been said of Christianity) was not that it had been tried and found wanting, but that it had never been tried—at least not on a scale large enough to put it to a real test. Then, in the special political climate of the late 1960's Congress enacted the landmark Housing Act of 1968, interpreted by many as a memorial to Martin Luther King. This act set up two important construction programs backed by the usual federal subsidies. One (known as Section 236) offered rental housing, and the other (Section 235) offered home-ownership opportunities for low- and moderate-income families. Both were designed to attract developers and investors in the hope that private sector involvement would generate a high volume of construction commensurate with the country's needs. The 1968 act, in fact, set a target of 2.6 million subsidized housing units to be built within 10 years.

Beginning in 1969, HUD Secretary George Romney gave top priority to putting the new programs into operation and meeting the

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* Many individuals associated with the organizations responsible for the housing allowance experiment generously gave of their time and made available reports and other information. I would like to thank especially Jerry J. Fitts and Howard Hammerman of the Department of Housing and Urban Development, Ira S. Lowry of the Rand Corporation, and Clark Abt and Helen Bakeman of Abt Associates.

Full documentation, including citations and tables, of the findings discussed in this article are presented in my Joint Center Working Paper No. 62, "What Have We Learned from the Housing Allowance Experiment?" (M.I.T.–Harvard Joint Center for Urban Studies, Cambridge, Massachusetts, 1980). That version will be published also in *Habitat International,* Volume 5, No. 1-2 (1980).

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ambitious targets of the 1968 act. Between 1969 and 1972, the federal government sponsored more subsidized construction than in the preceding 35 years combined. Yet as the HUD programs, together with their rural counterparts in the Farmers Home Administration, grew to a volume of 400,000 starts per year, both their financial and political costs became troublesome. The new housing required annual federal contributions to help the residents pay the rent or the cost of home ownership. By the early 1970's, yearly outlays began to approach 2 billion dollars. Although this figure was no more than one-fifth of the total cost of federal tax benefits given to middle-income homeowners, it was a natural target for a conservative administration looking for places to cut the federal budget. In addition, poor administration of these programs led to widespread corruption within the Federal Housing Administration that escaped full notoriety only because Watergate created a bigger scandal. President Nixon's annual report on national housing goals for 1972 complained about the rapid growth of future housing subsidy commitments, then estimated at some $12 billion merely to cover housing already approved. These programs were expensive, and getting more so. Worse still, the President's report also noted that the programs were failing to reach the lowest-income families.

Housing experts sponsored by the House of Representatives Subcommittee on Housing were also finding serious faults with these large-scale programs. A group of researchers at M.I.T. estimated that from one-fifth to one-half the total federal subsidy was not reaching the residents of the new housing, but went for federal and local administrative expenses and for tax benefits to investors. The same study found that subsidy arrangements were regressive, with greater assistance going to families at the upper end of the eligibility range than to low-income families at the bottom. The programs were serving mainly families above the poverty level in lower-middle-income brackets. Further, the families themselves had little freedom of choice in deciding where to live. To get federal housing assistance, they had to move to a designated development whose sponsor had been selected by the local FHA field office. As a result, the allocation of subsidized housing to communities across the country did not correspond as much to the needs of low-income residents as it did to the energy, activity, and political muscle of local sponsors.

An underlying reason for these problems was that the programs were designed to achieve two different purposes that were par-

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tially in conflict with each other. One purpose was to encourage new construction; the second to give financial help to families who could not afford good housing on their own. The construction objective overrode the housing assistance purpose at many critical points. The high cost and the generous payments to middlemen were part of the construction strategy. So, too, was the reliance on local sponsors to make key decisions about where to locate projects and whom to admit. Ceilings on the subsidy per family made it hard to bring the cost down low enough for the very poor, and therefore tipped the balance of effort toward families who were better off.

The logic of this critique of production subsidies led toward the conclusion that direct cash payments to low-income families might well be a more effective form of housing assistance. Direct payments to the poor would bypass the project sponsors and other middlemen who were draining off so large a share of the federal housing dollar. Families with cash in hand would be able to make their own decisions about where to live, instead of being limited to designated projects or locations. Rather than having to use their money for costly new housing, they could shop around to find less expensive existing homes. Eligible families would not have to be excluded because they happened to live in communities where developers were not making use of federal housing programs. In addition, direct cash payments could be scaled according to a family's income, rather than following the complicated and regressive formulas that resulted from an attempt to stimulate new construction.

Other analyses presented to the House Subcommittee on Housing pointed in the same general direction. The New York City Rand Institute had made some startling discoveries in its detailed analyses of the New York City housing market during the 1960's. From year to year, a large volume of sound housing was deteriorating in quality and more than 30,000 units per year were being taken off the market through demolition, conversion to non-residential use, or outright abandonment. Between 1965 and 1968, housing losses were greater than new construction by a substantial margin. The main reason for this rising volume of deterioration and abandonment was that a large number of the city's low-income families were unable to pay enough rent to cover the rising costs of operating and maintaining rental property. Landlords who were unable to earn a competitive return were cutting back on maintenance, and, in time, walking away from their buildings.

Ira S. Lowry of the Rand Institute staff concluded from the Rand

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studies that the most effective way to meet the housing needs of low-income families in New York City was to raise the level of maintenance in existing buildings while they were still in good condition. He estimated that a rent increase of from $400 to $700 per year was needed to support moderate renovation and good maintenance in typical older apartments. Even these small increases, however, were beyond the means of low-income families. Lowry accordingly proposed a housing allowance plan that would make available rent certificates at an average cost of little more than $600 per family.

Proposals for a housing allowance program were timely not only because of disappointments with the prevailing approach to low-income housing, but also because the housing allowance idea had already caught the attention of top policy makers. President Johnson's Committee on Urban Housing (the Kaiser Committee) in its 1968 report had argued the case for housing allowances. The Committee was concerned, however, that a massive housing allowance system could lead to inflation in the general cost of housing and also doubted whether housing allowances would work effectively without parallel measures to counter racial discrimination and provide effective consumer education. It proposed an experimental program to find out. One reason for caution was that the public welfare program, which provided families with cash income intended to cover housing costs as well as other expenses, had many of the characteristics of a housing allowance program. Yet a national survey showed that welfare families had severely inadequate housing, a majority of them living in either substandard or overcrowded conditions. The low level of welfare support did not fully explain this situation. Other families in the same income brackets lived in better housing than those on welfare. It was possible, therefore, that money given to poor families through transfer payments might not open up the same access to housing markets that most people already enjoyed.

Limited trials of the housing allowance idea began in 1970 under the auspices of federally funded Model Cities programs in Kansas City, Missouri and Wilmington, Delaware. The Department of Housing and Urban Development began preliminary studies and designs for a systematic national experiment in 1970 and 1971, and then organized its Experimental Housing Allowance Program.

In January 1973, the Nixon Administration suspended almost all existing federal housing subsidies for the poor and announced its intention to search for more effective programs. The housing al-

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lowance experiment, then getting under way in 12 selected cities, took on special importance as part of that search. Meanwhile, Congress enacted a new subsidy program, known as Section 8, to replace those that had been suspended. The new program was a hybrid, based on a flexible financing arrangement that could be used either to promote new construction or, in the manner of a housing allowance, to help people pay for existing houses that met program standards.

Debating housing strategies

While the housing allowance experiments were enrolling families and collecting data, but long before any results were available, policy analysts were carrying on a lively debate over the merits of housing allowances. One school of thought held that housing markets were so restricted and defective that making more money available would still not enable poor people to find decent housing. Others believed that housing markets would respond to a moderate boost in rent levels by increasing the supply of decent, well-maintained housing.

Among the skeptics was Chester Hartman, a long-time critic of federal housing programs, who contended in an article with Dennis Keating that "the shortcomings of the past programs inhere in the nature of the housing market itself." The key assumptions were that little housing is available for the poor, markets are non-competitive, and landlords are dominant. In Hartman's view, the housing allowance approach "pays insufficient attention to the vast shortage of decent, moderate-rent housing in most urban and suburban areas, particularly for groups the market now serves poorly, such as large families." Because of this shortage, he contended, "few doubt that the introduction of housing allowances into a static supply of housing will lead to rent inflation (on a short-term basis at least), not only for recipients, but also for other low- and moderate-income households competing for the same units."

In contrast to this view of a captive market, a series of empirical studies in the 1960's found that landlords were in a precarious position themselves, caught between increasing operating costs and limited rental income. George Sternlieb's study of Newark *(The Tenement Landlord)* and Michael Stegman's study of Baltimore *(Housing Investment in the Inner City)* went a long way toward revising the stereotyped image of the powerful slum landlord who reaped great profits by milking his properties and plundering his

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tenants. As Stegman described the situation, "Many inner-city landlords are today as victimized as are those to whom they provide inadequate shelter."

Although a casual look at inner-city rent levels might indeed suggest that landlords were succeeding in charging exorbitant and discriminatory rents while giving little service, Stegman found the reality to be different. Inner-city landlords were incurring high operating costs as a result of such factors as non-payment of rent, high vacancy rates, and vandalism to their property. These costs were much higher than in middle-income areas and helped to explain why prevailing rent levels were neither profitable to most landlords nor adequate to provide good maintenance:

> Over 10 percent of cash inflow—an amount equal to about 80 percent of net income—is dissipated on expenditures that do not contribute directly to maintaining or improving resultant flows of housing services. This is why apparently high rents with respect to housing quality can result in little or no profit to the investor. In part, this also explains why housing quality in the inner-city is inferior to that obtainable elsewhere in the city at comparable or only slightly higher rents.

The shortfall between rent collections and maintenance demands suggested that lack of rent money was one of the most important reasons why inner-city housing markets were failing to meet the needs of the poor. Stegman's careful analysis of Baltimore led to conclusions remarkably similar to those of the New York City Rand Institute. Although Stegman himself did not endorse a housing allowance strategy, his findings gave strong support to the view that inner-city housing markets were not locked under the control of powerful slumlords and that public-policy initiatives could indeed create more effective incentives for responsible property management.

In designing the rent allowance experiment, the Department of Housing and Urban Development was concerned with specific questions about how poor families would make use of their housing allowances, how local housing markets would respond to the increased demand generated by direct cash payments, and how different administrative arrangements would influence the results. Accordingly, the program was divided into three parts—a demand experiment, a supply experiment, and an administrative-agency experiment.

In the demand experiment (conducted in Pittsburgh and Phoenix), the research focused on the extent to which eligible families took part in the experiment, changes in housing expenditures for participating families, the choices people made with respect to the

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quality and location of their housing, and their satisfaction with these choices.

The supply experiment (in Green Bay, Wisconsin and South Bend, Indiana) was designed to test how a large-scale infusion of housing allowance dollars in a single housing market would affect the cost and quality of housing, the behavior of landlords and realtors, and patterns of residential mobility. The supply experiment offered open enrollment to homeowners as well as renters whose incomes were within the established ceilings, and set no limit on the number of families that would be permitted to enroll. (Other parts of the experiment were open to renters only, and the number of participants was limited in advance.)

The administrative-agency experiment selected eight different agencies to carry out housing allowance programs—local housing authorities in Salem, Oregon and Tulsa, Oklahoma; metropolitan government agencies in Jacksonville, Florida and San Bernardino County, California; state community-development agencies in Peoria, Illinois and Springfield, Massachusetts; and the state welfare departments in Durham, North Carolina and Bismarck, North Dakota. In these communities, research focused on the administrative performance of such functions as screening and enrolling applicants, certifying eligibility, providing counseling, and making household inspections.

In all areas, however, the basic requirements were the same. The program was open to families of two or more people and to single individuals who were elderly or handicapped. To receive a housing allowance, a family had to have an income below a ceiling that took into account the local cost of adequate housing and the size of the household. For a family of four, the upper income limit was generally below $7,000. Allowance payments in most cases were set to equal the difference between the estimated cost of adequate housing and one-fourth of the family's income; payments averaged $75 per month. Families in the program were free to spend more or less than the estimated amount for rent, but they had to live in or move to housing that met minimum quality standards set for each part of the experiment. The last requirement was relaxed only for two experimental groups in Pittsburgh and Phoenix that could receive the allowance without meeting any standards of housing quality. Despite the different purposes of the three parts of the experiment, it is possible to consider the twelve demonstration areas as a source of general information on policy issues that cut across the individual experiments.

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Did housing allowances reach those with greatest needs?

The housing allowance experiment, like other federal housing programs, established income ceilings and payment formulas intended to cover only people who could not afford the cost of decent housing on their own. In other programs, however, project sponsors and local administrators have often screened out those families likely to be most troublesome or most costly to house and have favored people from the high end of the eligible range. As a result, a chronic complaint has been that few of the benefits reached people who were most seriously disadvantaged: the very poor, racial minorities, female-headed households, welfare recipients, large families, and the elderly.

The housing allowance program has had great success in reaching these groups, particularly in comparison with earlier federal housing programs. The average income of families that received housing allowances was about $4,000 (1976 dollars). In contrast, the big subsidy programs of the early 1970's helped mostly lower-middle-income families rather than the poor. The current Section 8 existing-housing program, which has many of the features of a housing allowance, also reaches the poor: In 1977, median income for families in this program was $3,500.

Opponents of housing allowances argued that many families were "hard to house" because of discriminatory practices, and that they would be unable to use housing allowances effectively for this reason. Yet the housing allowance experiment was conspicuously successful in including minority groups, female-headed families, and people on welfare, which meant that a large number of "hard-to-house" people were able to find places of acceptable quality as required by the program.

Minority families—defined here as black or Hispanic—took part in the program fully in proportion to their eligibility. Female-headed families and those getting welfare assistance were the main participants in the housing allowance program. Households headed by women were about half the eligible families, but were half to three-quarters of those receiving payments in the various cities. Welfare families in the experimental cities ranged from 13 to 31 percent of the eligible families, but accounted for one-fifth to one-half of all those who received housing allowances. Large families with limited incomes are also hard to house, but they took part in the housing allowance program in proportion to their eligibility. Only the aged participated in lesser proportion than were eligible, possibly because they are less likely to move than other groups.

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Housing allowances not only reached the groups with greatest needs, but they also provided more generous subsidies to those families with the least resources of their own. The big federal housing programs of the early 1970's were criticized for using regressive subsidy structures, with greater benefits for better-off families than for those in the lowest income brackets. Housing allowance payments, in contrast, took into account both income and family size, with larger payments going to lower-income and bigger families. In the eight cities of the administrative experiment, the average monthly payment to families with incomes under $1,000 was $114, while the average payment to families with incomes of $5,000 or more was $53.

Did housing allowances reduce excessive rent burdens?

Housing deprivation can take several different forms, and to reach a fair judgment of the effectiveness of a housing program it is important to look at its impact on each type of deprivation. Governmental concern for the housing of the poor was originally directed at the unhealthy and demoralizing living conditions in the crowded slums of American cities early in the twentieth century. The traditional focus of low-income housing policy since then has been on the substandard physical conditions of slum housing—such as poor ventilation and inadequate plumbing—and on the crowding of families into cramped quarters. More recently, housing conditions have improved for most families, and the supply of low-cost, low-quality apartments has been shrinking steadily. As a result, many people live in housing that meets reasonable physical standards but they spend a third or more of their income for rent—either because low-cost slums are no longer available as an option for the poor or because they have chosen to make financial sacrifices in order to live in better houses.

Low-income families who took part in the housing allowance experiment were originally spending an exorbitant part of their income for housing. Among the 12 cities in the entire program, the median share of total income committed to rental payments varied from 34 percent to 53 percent.

Housing allowance payments did succeed in reducing the share of family income going for rent. In almost all cities, the median rent burden for families who received housing allowances was below 25 percent, with the median in individual cities ranging from 17 to 30 percent. But even with the allowance payments, about half

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the participating families still spent more than the generally accepted norm of 25 percent of gross income for rent.

The rent burden came down because most families who received housing allowances chose to stay where they were already living and decided not to spend much of the allowance money for improved housing. In order to qualify for housing allowance payments, families had to find housing that conformed to the minimum quality standards established for each part of the experiment. A substantial majority of the families who met these requirements did so without moving from the places where they were living before they enrolled. Of these families that were able to join the program without having to move, most were living in apartments that met the quality standards as soon as they were inspected, but a minority had to make repairs (or get the landlord to make repairs) in order to pass the inspection. The proportion of housing allowance recipients who stayed put, with or without repairs, ranged from 55 percent in the eight cities of the administrative experiment, to 83 percent in the two cities of the supply experiment. Families who stayed where they were paid only minor rent increases.

This pattern of decisions meant that people in the program were using housing allowances mainly to substitute for money of their own that they formerly spent for rent, rather than using it to make a substantial boost in their housing outlays. In Pittsburgh, families in the program used only 9 percent of their payments for rent increases above the normal increase paid by a control group; and in Phoenix, 27 percent of the housing allowance dollars went for housing expenditures above normal increases. The great bulk of the payments went to free family income for other expenses.

Did the program improve housing quality?

A central purpose of the experiment was to find out whether housing allowances would bring about improvement in the quality of the housing supply. Although a high proportion of participating families lived in housing that met the program's quality standards from the beginning, a majority did not and either had to make repairs or had to move in order to qualify. In the eight cities of the administrative experiment, an average of 57 percent of recipients either moved or upgraded their prior housing; in Pittsburgh and Phoenix, 61 percent either moved or upgraded, and in Green Bay and South Bend, 48 percent either moved or upgraded.

The housing standards that families had to meet varied some-

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what in different parts of the experiment, but they were generally in line with local housing codes, model codes recommended by building code administrators, and standards developed by public health organizations.

In order to meet these standards, most families in the program did improve the quality of their housing, either by moving or by repairing their current residences. The substantial minority who upgraded without moving did so mainly by making minor repairs at low costs. Typical repairs involved fixing windows or installing handrails on stairs; some work was also done on structural components, plumbing, and heating systems. In Green Bay and South Bend, landlords and tenants split the work about evenly, using professional contractors for only about 10 percent of repairs. Three out of four below-standard dwellings that were brought up to an acceptable level involved cash costs of less than $25 in Green Bay and less than $30 in South Bend.

In Pittsburgh and Phoenix, tenants and landlords also divided the work of bringing failed units up to standard. Residents typically painted and papered the inside, while landlords did the bulk of the work on plumbing and heating equipment and general repairs. The mean cash cost of the improvement was $92. A control group of families in these cities who did not get housing allowances reported almost the same outlays for repairs, however, and about four-fifths of those in both the experimental and control groups reported that their landlords also made improvements. The main difference was in the kinds of repairs. Families getting housing allowances were more likely to have their houses brought up to "standard" condition as required by the program.

Very few families managed to use their housing allowance payments to switch from rental housing to home ownership. In Green Bay and South Bend, about 300 families who enrolled as renters bought homes while they were in the program; these were less than 3 percent of the renters enrolled. Yet in these cities almost half of the participants in the experiment were already homeowners. Many of these had undoubtedly bought their homes at times in the past when their incomes were higher. But however feasible ownership may be for low-income families, it is clear that housing allowance payments did not raise incomes or assets enough to enable families to improve their housing by becoming homeowners.

A survey of how participating families in Pittsburgh and Phoenix felt about their housing shows that they valued the quality improvements resulting from the program, but it also reveals a deep-seated

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reluctance to move in order to get quality improvements. Of the families who failed to meet housing standards at the beginning, the most satisfied of all were those who later met them by improving the places where they already lived: 70 percent of these families were "very satisfied" with their housing. But the second most satisfied group were the families who stayed where they were and failed to meet the standards for receiving housing allowances: 45 percent of these were "very satisfied," compared to 30 percent of those who moved and passed and 19 percent of those who moved and failed. The families in the program were strongly attached to their homes. They were pleased if they could make them better at small cost, but giving them up for higher physical standards somewhere else yielded little satisfaction.

For those who could not easily meet the standards where they were, the program required a move that was often unwelcome and unsatisfying. The program's objective of bringing everyone into housing of standard quality was out of touch with the preferences and priorities of many of the families who took part.

Neighborhoods, housing costs, and program expense

Earlier housing programs usually offered a very restricted choice of neighborhood location, since people who wanted to use the program had to move to designated projects, and as a result of local political pressures the projects were usually concentrated in the worst neighborhoods of the city. The housing allowance strategy, in contrast, promised to open much wider options for neighborhood choice. People in the program could search out moderate-cost housing wherever it was located, and families moving one-by-one were unlikely to arouse the political protests that kept subsidized projects out of many desirable neighborhoods. A general reluctance to move undercut chances for widespread neighborhood mobility, but a sizable minority of families did move: 45 percent in the administrative experiment cities, 39 percent in Pittsburgh and Phoenix, and 16 percent in Green Bay and South Bend.

The housing allowance experiment produced only scattered information on neighborhood conditions, but what there is shows that people who moved tended to go into better neighborhoods than the ones they left. As the Rand Corporation's report summarizes the experience in Green Bay and South Bend, "the worst neighborhoods in each site lost program participants who moved, on balance, to better neighborhoods."

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Similarly, in the administrative experiment cities, most people who moved went into census tracts with a higher socioeconomic-index rating (based on resident income, education, and employment) than the places they left. And 39 percent of black households who moved, moved to areas with lower minority concentrations than their original neighborhoods. Black families in the program lived in areas that had an average of 56 percent minority population at enrollment, and moved to areas with an average of 40 percent minority population at the time they got their first payment. In Phoenix and Pittsburgh, black movers also went into neighborhoods with lower black concentrations. The mean reduction was 4 percent in Pittsburgh and 3 percent in Phoenix.

The housing allowance program did not add significantly to opportunities for poor families to live in suburbia. In Pittsburgh, 18 percent of the families originally in the central city moved to the suburbs, and 12 percent of those originally in the suburbs moved to the city. In Phoenix, 33 percent moved from the city to the suburbs, while 6 percent went from the suburbs to the city. In both areas, however, control households with similar incomes who had no housing allowances showed almost exactly the same pattern of movement.

Housing allowances, then, may have widened the locational options open to poor people, but very few took the opportunity to move to different neighborhoods and most families in the program chose not to move at all. For those who did move, the program did not improve access to the suburbs, but it did help them move to better and less segregated neighborhoods in the cities.

The most troublesome fear raised by the idea of a housing allowance program was that pumping new money into malfunctioning central-city housing markets would drive up housing costs both for people in the program and for low-income renters in general. The supply experiment in Green Bay and South Bend was organized above all to investigate the possible inflationary effects of a housing allowance. All those who were eligible in terms of income were invited to apply, the availability of housing assistance was well publicized, and payments were assured for a full ten years. The intent was to saturate both housing markets with housing allowances and then to analyze changes in rent levels.

The results were clear and unequivocal: there was virtually no effect on housing costs. Rents in Green Bay and South Bend increased less rapidly than either regional or national rent averages. Gross rents in Green Bay increased by an average of 7 percent a

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year from 1974 through 1977, and in South Bend by 5 percent. Higher fuel and utility costs accounted for most of the change in both places.

With hindsight, it is easy to see why housing allowances had no inflationary impact. The tendency of families to stay in their previous homes, plus their reluctance to spend more for rent, meant that allowance payments injected few new dollars into local housing markets. In addition, even with open enrollment in Green Bay and South Bend, relatively few families took part in the program. About 20 percent of the households in the two areas were eligible in terms of income, but only about half the eligible families were enrolled at any given time, and about 80 percent of those enrolled actually met the requirements to receive payments. As a result, even in the supply experiment, housing allowances went to only 8 percent of the households in the area.

In the ten cities for which information is available, allowance payments per family averaged from $888 to $1,632 per year. Administrative costs averaged from $152 to $429 in addition, excluding the cost of research and analytical work commissioned for the experiment. The average cost per household was about $1,150 in 1976 dollars—$900 in cash payments and $250 for administration.

The average cost of $1,150 compares very favorably with the cost of the two earlier programs for comparable income groups, in which public housing cost an average of $1,650 per family, and rent supplements $1,310, both in 1972 dollars. HUD's current Section 8 program is also more expensive than housing allowances. By 1976 estimates, the Section 8 existing-units program—which is most comparable to housing allowances—cost $1,500 per family, and Section 8 new-or-rehabilitated-units cost more than $4,000. HUD budget projections for 1980 placed the cost of Section 8 existing-units at $2,700 per family and new-or-rehabilitated-units at more than $4,500 per family.

Where did housing allowances fall short of expectations?

To the surprise of many housing experts, less than half the families eligible for housing allowances actually participated in the program.

There are many plausible reasons why poor families who were eligible for housing aid failed to enroll for it, or once enrolled failed to qualify for payments. Case studies indicate that some people who were attached to their homes doubted whether they could

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pass inspection or whether the landlord would agree to rent to people in the program. Others avoided the program out of pride: They viewed housing allowances as something like welfare, or they feared the agency staff would treat them in demeaning ways. Searching for a new place to live was almost always troublesome; it usually meant having to arrange for baby sitters, getting listings, finding transportation, and dealing with landlords. Often the search had to be completed quickly while places were still available in the local program, and many people had little free time. Even people in the selected groups that were not required to meet any housing standards still had to agree to be interviewed from time to time and to file reports on their finances and their housing. Some people were unwilling to go through the administrative procedures and some were overwhelmed with other problems. One woman who applied but never completed her enrollment told an interviewer later: "I was working hard, I was pregnant and having a nervous breakdown. My two kids had decided to live with their father. I just couldn't get involved in anything else."

Families who were able to meet the housing standards where they were already living had the best prospects for getting payments once they enrolled. In a few cities, many families never did succeed in meeting the housing standards, perhaps confirming the view of critics who had argued in advance that supply shortages would prevent housing allowances from working satisfactorily. In Pittsburgh, 78 percent of the families failed to meet housing standards when they first enrolled, and of these 73 percent still failed to meet them two years later. In Phoenix, 80 percent failed to meet the housing standards at enrollment, and 54 percent of these still did not meet them two years later. The pattern in these cities was not typical, however, and may reflect special enrollment procedures in which people entered the program by invitation instead of on their own initiative. Also in Pittsburgh and Phoenix, moving to another house did not necessarily help people meet the standards. In Pittsburgh, of those not meeting standards at enrollment, 15 percent moved and passed but another 28 percent moved and failed again. In Phoenix, 32 percent moved and passed, and 25 percent moved and failed. Again, however, the experience in these cities was not typical of the entire program.

An important factor influencing participation in the housing allowance program was the severity of the housing standards families had to meet: the tougher the standards, the fewer families took part. In Pittsburgh and Phoenix, one group of participants was

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not required to meet any housing standards at all: Once enrolled on the basis of income eligibility, they automatically received payments. With no standards, 78 percent of the eligible families in Pittsburgh and 90 percent in Phoenix got the payments. In Green Bay and South Bend, where housing standards were moderately demanding, about 40 percent of the eligible renters received payments. In Pittsburgh and Phoenix, in the group forced to meet the most stringent housing standards, only 30 percent and 45 percent of those offered enrollment actually received payments. The most likely explanation for this trade-off between standards and participation is that most low-income families are reluctant either to pay higher rent or to move in order to upgrade their housing conditions.

One group—minority families—had an especially hard time qualifying for payments. In the administrative experiment, minority families were less likely than other enrollees to meet the standards for payment. On the average, only 53 percent of the black households enrolled (but 79 percent of Hispanic households) eventually got housing allowances, compared to 77 percent of non-minority families. In the severely segregated city of Jacksonville, Florida, only 21 percent of black enrollees got allowances during the first enrollment period, compared to 54 percent of others.

This minority experience partly confirms the views of skeptics who argued that shortages of standard housing and discrimination would offset the value of cash payments to the hard-to-house. But there was also minority experience to the contrary. In Pittsburgh, eligible blacks enrolled to a greater extent than other eligible families, and once enrolled did as well as others in meeting program standards. In Phoenix, minority families (mostly Hispanic) enrolled in proportion to their eligibility, and once enrolled did better than others in qualifying for payments. Since the minority pattern was mixed, it is possible to conclude either that the glass was half empty or that it was half full.

It is also true that almost all social programs for the poor operate far below their authorized levels, because many people who are legally eligible for benefits do not apply. Further, most new programs have increasing enrollment in the first few years before they reach a steady rate of participation. In Green Bay and South Bend, 26 percent of all eligible households took part in the first year, 37 percent in the second year, and 40 percent in the third year. These figures are not out of line with participation rates in other programs for the poor. In New York City, for example, only 52 percent of families eligible for all categories of welfare actually

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took part in welfare programs in the early 1970's. And participation in the national food stamp program ranges from 12 percent in North Dakota to 58 percent in California, with a national average of 38 percent. Once again, it is an open question whether the glass is half empty or half full.

Before the housing allowance experiment, conventional wisdom held that increases in the income of poor families would lead to nearly proportional increases in their housing expenditures—that a 10 percent increase in income would generate a 10 percent increase in rent payments. A recent Rand Corporation study, based on surveys of a sample of all households in Green Bay and South Bend, estimates the income elasticity of housing demand at only .19 for renters and .45 for homeowners. In these communities, a 10 percent increase in income for renters would lead to only a 1.9 percent increase in rent payments. Elasticities estimated for other cities in the housing allowance program were also low.

An implication is that if families who receive housing allowances are free to decide how much of their payment to spend for housing, they will not increase their rent outlays very much above the prior level. But if rent payments do not increase, giving cash to the poor is not likely to prompt landlords to spend much money for property improvements or better maintenance, as Lowry had anticipated when he proposed housing allowances as a solution to New York City's problems of deterioration and abandonment. Letting consumers make their own decisions regarding how much to spend for rent works against the goal of improving the quality of housing.

The housing allowance program was truly exceptional in allowing families to set their own priorities between spending on housing or spending on other items. Most housing programs sponsor construction to a predetermined standard and require the families involved to use most of their subsidy to pay for a level of housing quality chosen by an administrator. In the case of housing allowances, federal officials expected the typical family to move to better accommodations and to spend most of its subsidy for higher rent. The reality was that most families stayed put, made minor repairs if they were required to meet program standards, got marginally adequate housing if they did not have it to begin with, and used most of the payment to free their own funds for non-housing expenses. As a result, the program had only limited impact on the quality of the housing supply and on mobility; but these were unavoidable consequences of respecting the wishes of families in the program.

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Learning from a social experiment

The housing allowance experiment did not fully resolve the debates about the nature of inner-city housing markets. The results certainly did not bear out the skeptics' fears of widespread inflation and unavailability of housing. Contrary to their predictions, the hard-to-house were able to find adequate housing through the allowance program or had already found reasonable places earlier. Female-headed and welfare families especially were able to make good use of housing allowances. But there were also results to confirm the skeptics' doubts. In some cities enrolled families had severe problems finding adequate housing, depending to a great extent on the standards they had to meet. And minority groups in many cities did not fare as well as others, bearing out the argument that discrimination would blunt some of the desired effects of cash payments for housing.

Housing allowance proponents can take satisfaction in the program's ability to reach and help families with serious housing problems. Yet this success in reaching families with marginal incomes and heavy financial burdens also insured that participating families would be reluctant to increase their rent outlays. Hard-pressed to come up with rent money to begin with, and living in the inflationary economy of the mid-1970's, they used their payments in ways that did not live up to the advocates' hopes of stimulating reinvestment in older housing.

It turned out that letting the poor make their own decisions led to results that ran counter to the goals of federal housing administrators. The Department of Housing and Urban Development has traditionally given top priority to improving the quality of housing, both for the country at large and for the people who take part in its programs. Marc Bendick, Jr., and James P. Zais of the Urban Institute began their own assessment of the housing allowance experiment by noting the goals former Secretary Patricia Harris set for HUD in a recent budget submission: the revitalization of urban areas, the maintenance and expansion of the supply of housing, and the provision of freedom of opportunity in housing. (Freedom of opportunity might conceivably include the freedom to live in housing of marginal quality in order to save on rent, but for HUD they note that this goal implies facilitating the "movement of low-income families outside areas of lower-income, minority concentration.") They argue persuasively that housing allowances do not serve the stated goals of HUD policy: "[T]hey have failed to generate substantial expansion of the housing stock, dramatic revital-

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ization of cities, or major increases in freedom of choice in housing."

Similar results of another housing program are putting HUD's traditional commitments to the test. The Section 8 existing-housing program has many of the characteristics of a housing allowance, and also allows families to use federal subsidies in existing apartments that meet prescribed standards. About half the participants in Section 8 existing-housing do not move from where they lived before, and they use their financial assistance mainly to reduce their rent burden. This program has had great success in reaching the poor, female-headed families, minorities, and the elderly; but it has done little to improve the quality of the housing supply. Not surprisingly, HUD has begun to slow down the existing housing program and to shift most of its housing assistance activity to a different Section 8 program for new construction or substantial rehabilitation.

The housing allowance experience reinforces other analyses that have shown high cost replacing slum conditions as the major housing problem facing the urban poor. If the problem has changed, the search for solutions should not be held captive to HUD's traditional organizational mission. HUD should have a mission that encompasses the range of housing problems, and a capacity to use the right tool for each purpose. There is still need for construction programs, since they are likely to be more effective than housing allowances for such purposes as helping minority families in tight housing markets or opening up the suburbs to the poor. But housing allowances are the right tool for many problems, such as the emerging concern for the victims of "gentrification." The widely heralded rediscovery of city neighborhoods, which is prompting affluent families to refurbish charming brownstones and town houses, is also pushing many poor renters out of their homes. Housing allowances would probably be highly effective in helping these families find other places to live nearby while coping with rising rents.

The most valuable contribution of social experiments may be that they raise new and troublesome questions about the purposes of public policy. A series of education experiments, for example, tried to find ways of helping disadvantaged youngsters learn more in school. Instead of revealing the most promising teaching techniques, these experiments led analysts to question more carefully how to measure learning and how to define what kind of learning we want to achieve. Similarly, the housing allowance experiment began by trying to find answers to questions about the design of a national program of cash assistance for housing. But its operation brought

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to the surface a serious conflict between the priorities of the poor and those of housing-program administrators.

The poor do not give housing *quality* the high priority that program administrators do. In the long history of housing reform in the United States, this is the first time the beneficiaries of a program have been able to make their views known on how the money should be spent. The views of the reformers have always dominated; in fact, we know almost nothing about whether earlier generations of slum-dwellers would rather have had the cash than either model tenements or public housing projects. But the poor of this generation, at least, have spoken clearly through the housing allowance experiment. Their main problem, as they see it, is cost, not quality. Interestingly, a household survey commissioned by HUD just before the housing allowance experiment began also suggested that housing quality was not a serious problem for the urban poor. In three cities surveyed in 1972, fully 84 percent of the households with incomes below $5,000 rated their housing units as "excellent" or "satisfactory." The housing allowance experience confirms and amplifies this finding. The poor still have serious housing problems, but they are not the ones most public programs address.

The real test of whether the housing allowance experiment was a success will be whether policy makers re-examine the purposes of government action in the light of its unexpected results. An important question for the next wave of housing programs is: Who should decide how much housing a family ought to consume and where it ought to live, the family or an administrator who sets the standards? (And the higher the standards are set, the fewer people will take part.) There may conceivably be public benefits involved that would justify overriding the preferences of the poor themselves and requiring them to pay for better housing than they would otherwise choose to do. If that is so, federal officials have a responsibility to present the case for setting aside the wishes of the poor.

At a minimum, the housing allowance experiment calls into question those housing goals that are based mainly on the weight of tradition or on the organizational mission of an established federal agency. It offers instead a rare opportunity to recognize the changing needs of the clients.

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The politics of air pollution

PETER NAVARRO

THE notion that the Clean Air Act exists solely to protect the public from the adverse effects of air pollution is an oversimplification. In fact, much of the act, especially as amended in 1977, was explicitly designed to achieve an assortment of distributional and other non-environmental goals for a powerful coalition of special interests. The cost, however, of pursuing such goals under the guise of air pollution legislation has been restricted energy development, increased oil-import dependence, inflation, and, ironically, in some cases not less but *more* pollution.

The 1970 Clean Air Act was a laudable response to a widely perceived "environmental crisis" in the late 1960's. A piece of landmark legislation ushered in with broad public support, the act was reasonably free of purely political motives, and its mandate "to protect and enhance" air quality "so as to promote the public health and welfare" seemed to represent a clear and popular solution to a serious and deep-rooted problem.

The approach of the 1970 act was simple. The federal government would determine what level of pollution was "safe," enshrine those levels as national ambient-air-quality standards (NAAQS), and enlist the states to ensure that those standards were achieved. In an era of abundance—prior to the energy crisis—and in light of the

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undeniable desirability of the goals pursued, economics hardly mattered (and it was barely mentioned). We—the nation which had put a man on the moon—would clean up our air, water, and land in short order, and never mind the cost.

Though the goals were laudable and the approach simple, the process of implementing the 1970 act had a number of unfortunate, largely distributional, side effects that created a pool of winners and losers in what quickly turned out to be a rather high-stakes game.

The primary losers were the East and Midwest coal producers and, more generally, business and utility interests in the heavily populated—and politically powerful—Eastern half of the country. The principal winners were the Western coal producers and Sunbelt—primarily Western—states looking to attract industry and promote growth.

Between losers and winners stood the "environmentalists," a potential swing force ready to join hands with whichever side would support their goals—goals which included not only less air pollution but also, as it turned out, a variety of other objectives such as preservation of wilderness and farmland acreage, prevention of strip mining, and, for the most zealous, the complete halting of industrialization and economic growth.

The two major provisions of the 1970 act which created this pool of special interests were those establishing new-source-performance standards (NSPS) and national ambient-air-quality standards, both of which became, in their implementation, more binding constraints on the East than on the West.

The NAAQS provision established "safe" levels of pollution for six pollutants, including sulphur dioxide (SO_2), the principal pollutant emitted by coal-fired power plants; it also divided the country into 236 air-quality regions which were designated "clean," i.e., *attainment* areas, or "dirty," i.e., *non-attainment* areas, depending on whether the air quality was above or below the NAAQS. The states were then directed to implement plans which would clean up the dirty areas "in a reasonable time."

Since the majority of the dirty, non-attainment areas were in the heavily industrialized East, and most of the clean, attainment areas were in the more rural and less densely populated West, the act thus fostered a two-pronged competitive advantage of the West over the East. First, because states had to impose stricter controls in dirty areas, pollution-control costs for industries and utilities located in those areas tended to be higher than those of competitors in clean areas. Second, those clean areas—principally in the West—became rel-

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atively more attractive as growth areas, not only because pollution control costs were lower, but also because the initial interpretation of the non-attainment portion of the NAAQS precluded any growth at all in many areas of the East. Thus East was pitted against West —with the stakes, of course, profits for industry, tax revenues for the states, and jobs for the regions.

The second and more controversial NSPS provision placed strict limits on the level of pollutants a new (or modified) plant could emit. In particular, NSPS restricted sulphur-dioxide emissions (the principal pollutant of coal) to 1.2 lbs per million BTU's.

Since electric power plants burn over 75 percent of the coal consumed in the nation and generate approximately 73 percent of the sulphur emissions, electric utilities bore the brunt of the NSPS provision. That provision, however, did *not* specify how the standard should be met. In fact there were two options: Sources of pollution could either burn high-sulphur coal and install expensive "scrubbers" to remove that sulphur from the flue gas or, alternatively, use low-sulphur or "compliance" coal, which could be burned without scrubbers and still meet the standard.

Since most of the coal in the "dirty" East is relatively high in sulphur (ranging from a sulphur content of 1 to 2 percent in states like West Virginia and Pennsylvania to as much as 3 percent or more in Ohio and Illinois), and since the vast bulk of low-sulphur coal (below 0.8 percent) is located in the West, the choice for utilities and industry boiled down to equipping new facilities with scrubbers to burn local, high-sulphur coal, or, importing Western "compliance coal" and running without scrubbers. In this complex decision the increased cost of transporting Western coal the greater distance had to be weighed against the added expense of scrubber technology, which boosted capital and operating costs by as much as 30 percent.

In the Midwest, the region with the highest-sulphur coal and the heaviest levels of sulphur emissions, the choice more often than not was low-sulphur coal—though it meant hauling that coal over a thousand miles and not utilizing local deposits. And even as far East as West Virginia, utilities—wary of the unreliability of the new scrubber technology—started talking about "importing Wyoming coal."

The NSPS provision, therefore, unavoidably affected the division of market shares among coal producers in different regions, as well as the numbers of mining jobs in the deep mines of the heavily unionized East, and coal-severance-tax revenues for the states. And

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the stakes were high: hundreds of millions of dollars and thousands of jobs.

Together, the NSPS and NAAQS provisions of the 1970 act thus put a "double whammy" on the East; and it was only logical that the affected parties would turn to the political process to regain what had been taken from them by the designation of both their air and their local coal supplies as unacceptably dirty.

The 1977 Clean Air Act Amendments

The seven-year battle culminating in passage of the 1977 Clean Air Act Amendments represented a fundamental change in the practice—if not in the rhetoric—of implementing the act, and signaled an abrupt shift of emphasis from meeting and maintaining the NAAQS to a much more comprehensive (and costly) effort to reduce overall pollution emissions. The amendments also represented a clear victory for the Eastern-industrial/coal-producer/environmentalist coalition—the so-called "Unholy Alliance" which found in the suppression of Western growth and Western coal development a common cause.

The major provisions of the 1977 amendments developed to neutralize the West's advantages were: more stringent new-source-performance standards (NSPS); the institutionalizing and toughening of the Environmental Protection Agency's "prevention of significant deterioration" policy; new "visibility" provisions; and the baldest distributional measure, a section to protect "local coal."

The tougher NSPS specified that new (or substantially modified) plants burning coal had to achieve a "percentage reduction in emissions" and reflect "the degree of emission reduction achievable through the application of continuous emission reduction"—code words which, in effect, eliminated the option of burning low-sulphur compliance coal by forcing the use of scrubbers on *all* coal, *regardless of its sulphur content.* This, of course, largely eliminated the cost advantage of using Western coal.

To supplement the strictures of NSPS as well as to put pressure on *existing* plants using Western coal, in one of the most transparent displays of legislating for special interests Senator Howard Metzenbaum (supported by the United Mine Workers Union, local coal producers, and the Chamber of Commerce) succeeded in tacking his "local coal amendment" onto the act. This measure banned the importation of Western coal in cases where it threatened jobs in the high-sulphur coal mines of Ohio and Illinois. In essence, this amend-

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ment was designed to force utilities to spend millions of dollars to protect fewer than 10,000 jobs—and, as we shall see, it also meant not less but *more* pollution.

While NSPS and the Metzenbaum Amendment effectively eliminated the premium users would pay for low-sulphur Western coal, the prevention of significant deterioration (PSD) and visibility provisions in the 1977 amendments took dead aim at the advantages of siting new factories and power plants in the West.

The PSD provision was the end result of a complex legal and administrative battle over an ambiguous phrase in the 1967 version of the Clean Air Act which indicated that one of the legislation's goals was to "protect and enhance air quality." As a result of litigation brought by environmentalists, this phrase was declared by the courts and the Environmental Protection Agency (EPA) to mean a policy of "non-degradation" in which clean or "attainment" areas had to be protected from being rapidly polluted or "dirtied up" to the minimum acceptable limits of the NAAQS.

In the EPA's interpretation of the Supreme Court's 1976 "decision"—the vote was 4-4 with no written opinion—clean areas were divided into pristine, virtually no-growth Class I areas; moderate-growth Class II areas; and heavy-growth Class III areas. The level of growth in these areas was then controlled through an *increment system* which specified what portion of the available clean air could be "used up," with the smallest increments specified for the pristine Class I areas and the largest for the heavy-growth Class III areas.

PSD was not, then, a new concept; its pre-1977 implementation by the EPA had tended to slow growth somewhat. However, in institutionalizing the provision in the 1977 amendments, Congress went several steps further than the EPA, significantly tightening the requirements of, and adding several new features to, the original program—all of which moved in the direction of an even greater restraint on growth.

First, the new area-classification scheme, to the delight of the Western "preservationists," placed large national parks and wilderness areas—75 percent of which were in the West—in the no-growth Class I category, put everywhere else in the Class II moderate-growth division and established several conditions which made it virtually impossible to reclassify an area into Class III. In addition, it reduced the size of the "increments" allowed to be consumed by new plants, thus further ratcheting down the potential for growth. Second, the provision created a lengthy "new source review" permission procedure which, in addition to requiring the usual en-

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vironmental impact statements and public hearings, also imposed detailed (and costly) pre- and post-pollution monitoring procedures and a stringent "technology test" that forced the installation of "best available control technology" (BACT) on all new heavy-pollution sources locating in clean areas.

This last BACT requirement, in addition to making it as expensive to construct facilities in clean areas as in dirty ones, also was the final nail in the Western-coal coffin, since from yet another angle it reinforced the mandatory use of scrubbers (i.e., the best available technology) by *all* new coal-burning facilities, regardless of the sulphur content of the coal burned. Together, then, the "prevention of significant deterioration" requirements created an effective regulatory barrier to growth in the West both through the creation of additional delays and uncertainties in the permission process and by increasing the costs of locating in clean areas.

As an additional barrier to growth, environmental interests also managed to insert several sections protecting "visibility," particularly in the pristine West—provisions which have the very real potential of further limiting, and perhaps even precluding, *any* growth within hundreds of miles of Class I areas. For example, a subsection of the PSD provision now requires a "visibility impact review" in the permit application when a new source *might* affect visibility in a Class I area; and should an adverse impact on visibility be demonstrated, that source may not be granted a permit to construct, *even if it doesn't violate the allowable PSD increments.* Thus, a tough PSD provision has been made even tougher.

In addition, visibility regulations were extended to existing polluters, spawning yet another four-letter acronym in the Clean Air Act vocabulary. Specifically, any polluting source built within the last ten years that threatens to impair visibility in certain Class I areas could be forced to install "best available retrofit technology" (BART) to control emissions—a requirement softened only by the fortunate allowance that economic considerations may be taken into account in applying BART.

Costs of the 1977 amendments

While the 1977 amendments appear to have successfully restored the balance between East and West and furthered several nonpecuniary or value-oriented goals of environmentalists (e.g., preservation of the Western wilderness and farm areas, slower growth, less strip mining), Congressional pursuit of these objectives has im-

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posed substantial costs upon our economy as a whole and on the coal industry in particular. Further, in many cases the incremental costs of the amendments have been incurred with little or no associated environmental benefits and at the expense of other national policy goals, namely, energy independence and controlling inflation.

Imposing higher (and unnecessary) costs on the production and use of coal delays progress toward the goal of energy independence in a number of ways:

First, the voluntary conversion to coal by oil or gas users is often delayed because higher coal costs swing what usually is only an economically marginal decision back in favor of petroleum. Similarly, the trend toward early retirement of usable oil- and gas-fired capacity—which has been induced by escalating petroleum prices —is retarded when coal costs also rise.

Second, as coal costs rise, the "new capacity decision" whether to use oil, gas, coal, or nuclear fuel turns against coal. The result: smaller industrial-energy users seek (and easily find) exemptions to build new oil- or gas-fired boilers in the loophole-ridden Fuel Use Act (which prohibits such construction). Moreover, large users, such as power plants, may defer new construction by extending the life of old, dirtier coal plants, a decision which leads to more air pollution. Alternatively, they might rely more heavily on peak-load gas or oil capacity, which draws down dwindling natural gas supplies or increases oil consumption. Lastly, and often overlooked by environmentalists, they may choose the nuclear option.

Finally, the operation of pollution control equipment—scrubbers, precipitators, bag houses—increases a plant's energy requirements by as much as 5 to 10 percent. For the electric-utility industry alone, such an increase means a future additional energy requirement of over one-half million barrels of oil-equivalent per day by 1990.

Besides raising oil imports, there are other impacts which hit much closer to home. The most obvious effect is on inflation. With electric utilities relying on coal for over 75 percent of their fuel requirements, rising coal costs swiftly translate into higher electricity rates. Moreover, there is an indirect add-on to manufactured goods—not only because producers are using more expensive electricity but also because many primary industries (e.g., steel, smelting, cement) use coal for process heat.

More subtly—and most ironically—the 1977 amendments have in some areas meant *more* pollution, not less. For example, the scrubber and local-coal provisions result in more high-sulphur coal being

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burned, and this has led to the so-called "Midwestern Anomaly"—a higher overall level of sulphur emissions in that region than would otherwise have been experienced under the 1970 act. (Since the majority of the sulfate air pollution in the Eastern half of the United States has its origins in Midwestern sulfur emissions, this anomaly has even broader implications for public health than one might first suspect.)

Furthermore, requiring scrubbers on *all* sources irrespective of the coal's sulphur content greatly increases the quantities of scrubber "sludge" which must be disposed of. Since the principal method of disposing of this sludge is land storage—and because the sludge is neither biodegradable nor firm enough to support structures—the end result is the permanent removal of thousands of acres of land, often productive farmland, from any future use. (To comprehend the magnitude of this problem, note that one 1800-megawatt power plant equipped with scrubbers will, over its 30-year productive life, require roughly 1400 acres of land for sludge disposal.)

Lastly, the current "wet-scrubbing" technique in most common use requires large quantities of water to cleanse or "scrub" the flue gases. This creates both thermal and chemical water pollution, while exacerbating the water-scarcity problem industrial developers must cope with in the arid West.

As a final, perhaps more hidden impact, there are what economists call the "opportunity costs" of using too little of a resource—in this case coal—because it is priced too high. Such opportunity costs, by and large hidden, translate into an efficiency loss to the American economy which, though difficult to quantify, runs into the many millions of dollars.

Reconsidering the 1977 amendments

The pursuit of non-environmental goals under the cloak of the Clean Air Act Amendments—and at the expense of energy independence, price stability, and economic efficiency—seems to be a questionable Congressional strategy, particularly within the context of current economic conditions. The clear danger is that in excessively impeding energy development and exacerbating inflation, these amendments will provoke a "backlash." Energy-hungry Americans, fed up with gas lines and soaring electricity bills, in time may force what environmentalists most fear, a "gutting" of the Clean Air Act.

The pendulum need not take this drastic swing—if only attempts are made to acknowledge that economics does indeed mat-

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ter. It is in this spirit—and perhaps in recognition of the "backlash" danger—that the EPA has recently shown an increased flexibility in its interpretation and implementation of the Clean Air Act.

For example, the Agency's new "offset policy," which allows for the sale and transfer of air pollution rights in non-attainment areas, is an innovative effort to facilitate economic growth while improving air quality; and it represents the kind of market solution that economists typically favor on efficiency grounds. Similarly, in promulgating new-source-performance standards for electric-utility boilers, the EPA—to the dismay of environmentalists—stopped short of imposing the maximum emission limitations the 1977 amendments would have allowed, and instead chose a slightly more polluting, but substantially less expensive standard, basing that decision on cost-effectiveness.

But despite its new flexibility, EPA still must operate within the bounds set by air pollution laws. With the Clean Air Act up for revision next year, there is an excellent opportunity for the Congress to broaden those boundaries and to incorporate a greater measure of economic sense into an important environmental law.

The hope is that our legislators will realize that the continued pursuit of distributional goals at the expense of energy and economic policy is resulting in the "shrinking pie syndrome". Through onerous regulations, the total American economic pie is reduced to such an extent that all of us—Easterners, Westerners, industrialists, environmentalists—are losers, regardless of who initially gained from Congressional favor.

If such an awareness is forthcoming, then perhaps the 1981 revisions to the Clean Air Act will reflect the kind of constructive political compromise that recognizes the full range of energy and economic tradeoffs implicit in environmental policy. Such a compromise could ease our divisive and exceedingly costly inter-regional conflict of interests, in a way more favorable to the national interest.

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Ironies of American law enforcement

DAVID H. BAYLEY

Both Americans and foreigners believe that the United States has developed an horrendous problem with crime. We consider ourselves notorious and a bad example to other nations in the world. Judged historically, this view is probably too bleak. There are reasons for thinking we may be more secure from crime today than during most periods in our national history. Nevertheless, when we compare our crime problems with those of other countries, there is reason for Americans to be disquieted. It does appear that crime is significantly more prevalent in the United States than in other countries of similar economic and political character. This is reason enough to think seriously about crime in America, and about our criminal justice system. When such an effort is made, one discovers a number of ironies about American criminal justice.

Consider, for example, the class and racial overtones associated with such phrases as "law and order." But, in truth, crime bears disproportionately on those segments of our society that are poor and disadvantaged. This leads me to what I shall call the first "irony": *Concern with crime and public order in the United States is not a plot against the poor and racial minorities; crime bulks much larger in their world than in the world of people who read this magazine.*

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The role of the police

A vast criminal justice system—composed of police, prosecutors, courts, and prisons—has been created in the United States. It represents an enormous human and physical investment; its problems have become the commonplace of contemporary discussion, and often occupy center stage in our media. What does this system do in relation to crime? I am going to focus almost exclusively on the police functions in the system for several reasons: Police are the most numerous group of criminal justice functionaries; police determine largely what the system will do, since they decide for the most part who shall come into it and set the terms of its subsequent deliberations; and finally, police are the only point of contact with the system that most people ever have.

Viewed in terms of process, the criminal justice system is a curious institution. Police are responsible for applying the vast ambiguous body of the law to the disorganized hurley-burley of daily life; they do so typically with at most only one colleague present and without authoritative supervision or other professional help. Judges, by comparison, make decisions largely in terms defined by others; they perform in public, are assisted by trained counsel and staff, and their decisions are subject to appeal. Police labor alone in a hurricane; judges work with others at a well chaperoned party. This suggests the second irony: *The people with the least status, education, training, and perquisites in the criminal justice system have the widest discretionary authority, the least structured opportunities for exercising it, the least professional help assisting it, and the most privacy in doing it.*

What do the police do as agents of the criminal justice system charged with reducing crime? Not what most Americans think. The bulk of police manpower is assigned to patrolling, almost always in automobiles. About half the time patrol officers do nothing at all except drive around—random patrolling, it is called. When they are diverted from patrol to intrusion, approximately 90 percent of the incidents they deal with have been brought to their attention by the public. Police rarely discover on their own situations requiring intervention. And the most common of those they do find are related to traffic. In effect, most of what the police do in an active way is done at the behest of the public. Contrary to popular expectation, the public is instrumental in defining when and where the police will fight crime—a pattern common to democratic, developed parts of the world. In other places the state, not the public, determines what the police will do, such as guarding public build-

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ings, escorting VIP's, serving legal papers, performing inspections, doing surveillance, controlling crowds, and processing papers and applications. Among the world's police forces then, who stimulates police activity is an important and neglected indicator of the quality not only of police work but of governance.

In the United States not more than 20 percent of the situations the police are called upon to handle involve enforcement of law. Most police work, according to a host of careful studies, involves requests for services, such as first aid, domestic counseling, advising and warning, checking and reassuring, traffic and crowd control, patient listening, and referral to other agencies. These demands are especially high from those segments of the population that have the most serious crime problems, for they haven't the money or clout to obtain such services through private auspices. Thus, there is a third irony: *In our crime-preoccupied society, the police spend most of their time performing non-law-related services.*

These facts about the work really done by policemen, coupled with the widespread fear of crime, may explain the astronomical growth of private policing in the past few years. Today there are as many private guards and detectives as there are public police—about 500,000 of each. Private police are employed primarily to protect—and are paid, of course, by people or institutions with money. We may be evolving toward a dual system of policing: for the poor and disadvantaged, the state's police concentrating on services, and for the privileged, private police concentrating on crime. Even more disturbing is the fact that this trend is occurring at the very time that public finances even for vital services such as police are being squeezed.

The police and the people

As societies modernize—that is, become more industrialized, less agricultural, and more urban—requests for police action involve more servicing and less and less enforcement. Though we have an image of rural police gently and informally intervening while urban police rigidly and impersonally enforce the law, I have two reasons for believing that this picture is mistaken. First, economic development tends to break down cohesion in primary groups. In the archetypical village, services are provided by family, extended kinsmen, neighbors, caste and tribal brethren, or customary employers. The only warrant for police intrusion is serious criminality. In modern cities, however, agencies of the state, among them the police, play

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a relatively larger role in providing essential social services. Second, technology makes police response easy to command. People won't call the police to check a disturbing noise if the nearest police station is an hour's bicycle ride away over unpaved tracks, but they will call if all they have to do is dial 911. Expansion of telecommunications systems is probably the most important factor in distorting what most people believe to be the real function of the police.

Even in the small proportion of police work that involves law breaking and law application, outcomes are determined to a substantial extent by the wishes of the public. Studies show that whether an arrest is made or not depends on what the complainant wants, discounted by the seriousness of the offense. Even in felony cases, police will not automatically enforce the law if complainants don't want them to. This is particularly true when complainant and suspect are related or have a close personal relationship.

This leads us to the fourth irony: *Contrary to general opinion, the police in the United States are peculiarly democratic, in the sense of being responsive to the public with respect to instigation, function, and enforcement.* With such a posture how useful can police in the United States and elsewhere in the Western world be in meeting the challenge of crime? Probably not very. Studies have been done of the effects on crime rates of varying the coverage and tactics of preventive patrol. They show small or negligible effects. This isn't really so surprising. Most crime, certainly most serious crime except robbery, does not occur in public places. Certain tactics may help to reduce a few specific kinds of crime and research is being done on these, but by and large it is fair to say that most police personnel are deployed in ways that have little relation to effective crime-fighting.

Studies of detective activity are even more disheartening. Unless a criminal is caught at the scene or is identified immediately by name, address, or some other specific—such as a license plate number—the chances of an arrest being made are slight. It is a myth that detectives solve crimes from physical clues and testimony not involving identification. This is why arrests are made in only 20 percent of all serious crimes reported to the American police. For though the arrest rate for homicide is 79 percent, for forcible rape 52 percent, and for robbery 27 percent, it is a mere 17 percent for burglary, and 14 percent for auto theft. My own calculations show that convictions are obtained in approximately 11 percent of all serious crimes reported to the police. Since the real incidence of crime is at least double the reported rate, convictions are probably

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obtained in no more than 5 percent—one in twenty—of all serious crimes. Surely this explains why the United States has the highest crime rate of any advanced industrial nation at the same time that it has the severest set of criminal penalties.

No one sees more clearly the discrepancy between what the criminal justice system does and what the public wants than do the police themselves. They are hired as crime-fighters, yet spend their time performing non-crime-related services. When they do deal with crime, they see the inefficacy of the system. Police deal with victims; courts with suspects. The police see people who have been hurt, battered, traumatized, rendered distraught and helpless. This is the explanation, in my view, for the widespread criticism by the police of the courts. It is not primarily because the courts restrict the activities of the police. That's a symptom of police frustration that has other roots. The police realize, uniquely among Americans, that the criminal justice system of which they are a part is failing to provide the protection society wants.

The fifth irony, then, is that *at the heart of law enforcement in the United States there are frustrated, cynical people dealing with neglected, helpless people—in effect, the strong and the weak, both alienated, locked in an intimate embrace.*

Japan, China, and informal controls

If one accepts the argument that the criminal justice system in the United States is not functioning as it should, three courses of action can be considered: We can redefine the problem, for example, from reducing crime to reducing the fear of crime; we can try to make the present system work; or we can try something new. I am going to discuss only the last possibility, because it goes against the American grain: Our instinctive response, not an unintelligent one, is to try to get a better handle on the nature of the problem and to put existing machinery right. This is where most attention and resources have and will continue to be put. The experiences of other countries, however, suggest a variety of possibilities that might be considered. By examining them we can learn more about what are "givens" in our crime and law enforcement problem, and hence what realistically we may be able to achieve through redefinition and tinkering.

If the formal system of criminal justice in the United States is not working particularly well, logic and foreign fact suggest that the United States might rely more extensively on *informal* mecha-

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nisms of ensuring social discipline. After all, most people don't commit crimes; the reason they don't is not because they are afraid of getting caught but because crime is wrong. Lessons in rightness of behavior are not just taught by the legal system; people learn them throughout life, almost as asides to living, through snide comments, humor, implicit judgments, disdain, withdrawal of affection, anger, and so forth. Moreover, legal prohibitions, reinforced through the police and the courts, are only a small part of the corpus of propriety, most of which is taught informally by the people one lives with.

The presence of tightly-knit primary groups ready to constrain the behavior of members is the reason, I believe, that the nation of Japan—a country like the United States in every way except culturally—has a real crime rate less than one-fourth the American. Though its cities are more crowded than ours, its people as rich, its traditions as violent, and the accoutrements of life as modern, fewer people are murdered in Japan each year than in New York City; Japan's rape rate is one-thirteenth and its robbery rate one-two-hundredth the American. Moreover, there are only 6,000 drug addicts in the entire population of approximately 110 million, compared with over 250,000 addicts in New York City alone. It is not a coincidence, I believe, that Japanese families are more stable, that fewer people live alone, that residential and occupational mobility is less, and that peer pressures from family, school, work colleagues, and neighbors are more intense. One fact dramatically illustrates the relative difference in strength between formal and informal sanctions in Japan and the United States: Police in the U.S. are now routinely deployed in schools to help maintain order; in Japan, police officers refer juveniles engaged in mild delinquency outside the schools to school principals rather than taking action themselves.*

The same tight, informal control through small groups is found in China, according to a fascinating book by Victor Li entitled *Law without Lawyers*. He contrasts deviance control in China and the United States as being like the difference between sliding down a long slope and falling off a cliff. In China, family, friends, neighbors, and colleagues first notice troublesome behavior and counsel the

*The difference informal sanctions make in the functioning of criminal justice systems can be seen in another illustration from Japan: 90 percent of all people accused of crimes are never put in jail; they are sent home to await notification of trial date. The question of bail never arises, nor forfeiture of earnings, their surety being the disciplinary power exercised by the groups they live in.

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individual. Occasions are created for discussing the would-be delinquent's behavior. Even after laws are broken the formal system defers to the informal, allowing re-socialization in lieu of punishment. Only after informal corrective sanctions have failed does the criminal justice system take over. Formal sanctions in China, then, are for incorrigibles. In the United States, on the other hand, formal processes are invoked much more quickly, raising problems of jail, bail, and criminal record even for relatively minor infractions. The dividing line between formal and informal controls is much sharper in the United States, and the brink closer beyond which the individual is wrenched out of normal life—and scrambling back, especially for the poor, is difficult.

The American criminal justice system is failing, therefore, not because it is perversely constructed but because it is trying to do an impossible job, namely, making up for the looseness of the weave of American society. Assertive independence rather than harmonious membership is the mark of individual maturity in the United States. Children are taught "to stand on their own feet"; families pick up and move long distances without feeling remorse; economic opportunity justifies leaving any employer for another. Not so in Japan; not so in China. The cost that Americans pay for rampant individualism may be very high and not solely in the area of crime: They may also pay in mental health, physiological well-being, and psychic satisfactions.

Morality and legality

The relative feebleness of informal controls in American society is also revealed in the tendency for morality to be displaced by legality. Americans are much more comfortable talking about what the law allows than what morality enjoins. The debate over appropriate penalties for marijuana use is instructive. The burden of the discussion in recent years has been almost exclusively whether or not to have criminal penalties. Between these polar positions, however, is an option rarely examined: that marijuana use be discouraged even if criminal penalties are deemed inappropriate. It is not inconsistent to doubt whether the criminal law should be employed against marijuana use and at the same time to argue that people should not smoke it. But where are the advocates of decriminalization who simultaneously use their moral authority to caution abstinence? The disastrous experiment with alcoholic prohibition shows the foolishness of overreliance on the criminal law, but it doesn't

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show the foolishness of strenuously discouraging the consumption of alcoholic beverages. The sixth irony is that *in the United States, legal liberty tends to define the boundaries of moral propriety.* Americans act as if it is unfair to criticize personal indulgence that is not legally prohibited.

In China and Japan morality and law are not confused. All laws must be moral, but morality is vaster than law and no less binding. Moreover, increased reliance by government on law is considered an indication that leadership is failing; it is a sign that government no longer rests on reason and virtue. A related indication that morality through informal mechanisms of enforcement is weaker in the United States than in other countries (especially, but not exclusively, in Japan and China) is the uneasiness Americans show in speaking about morality. It seems to me that within my lifetime the legitimacy of trying to influence the behavior of others through admonition has declined. Such "preaching" is socially unacceptable; it isn't done. Authoritative voices of moral counseling have been stilled—among parents, in the media, in occupations and professions, and among politicians. The biblical warning about "judge not, and you shall not be judged" has been replaced by another—"judge not, and you shall not be considered a prude."

I wonder in this regard about my own profession—teaching. In their professional lives, teachers are protected by academic freedom, which allows them to discuss and advocate almost anything they want without being penalized in their livelihood. At the same time, instruction in classrooms must conform to what seems to be a relatively new norm—that of being "value-free." It's considered bad form to use the classroom, with its captive audience, as a bully pulpit. Teachers are to report and analyze according to professional criteria; personal opinions are to be kept to themselves. Even outside the classroom, professional canons are against speaking authoritatively about matters not within the narrow preserve of disciplinary competence. It is easy to find examples of academics who are not well regarded, though they seem to be well remunerated, because they trade on expertise in one area to "pontificate" on topical concerns. Remembering the outcry from academics during the 1960's in connection with civil rights and the Vietnam war, you may think my observations seriously mistaken. They do require a qualification, but the qualification reinforces the point. It is not illegitimate to confront policy issues of a political sort, meaning decisions made by institutions or public functionaries. But it is not legitimate to criticize personal behavior; only what might be called institutional

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behavior is fair game. The seventh irony, then, is that *American teachers are safely protected in advocacy, yet it is considered illegitimate to do so with respect to private morals. It appears they possess the freedom to leave personal morality to formal institutions.*

Now I understand the reasoning behind all this: Like most Americans, I would be uncomfortable with free-swinging exploitation by teachers of their institutional authority. But I do wonder quietly—and never before in public—whether the voice of an authoritative institution that might be used for lessening reliance on the criminal justice system has not been stilled. Moreover, I sometimes wonder, even more quietly, whether respect for education is not tied a little to moral responsibility publicly exemplified—not to moral dogmatism, but to the obligation to speak personally about moral decisions. American institutions that once exhibited considerable authority are now often criticized for having ceased to do so—families, churches, schools, and neighborhoods. One element in this decline may be delegitimization of moral discourse and its replacement with legal processes.

Justice and community

This diagnosis is not original. Commentators for some time have viewed with misgivings the development of "mass society," large-scale polities founded on belief in individual autonomy and held together almost exclusively through formal arrangements. People in the Third World have long recognized the social dangers in emulating the West's pattern of economic development and social atomization. Among Americans, too, there seems to be recognition of something lacking, expressed in the popular word, "community." The problem deserves to be addressed, but there are enormous difficulties in doing so. I will examine two of these, in the hope that thereby we can see more clearly who we are and what we may become.

First, there is the problem of justice. It's pure romanticism to think that small groups are invariably fair, supportive, warm, and non-exploitive. Formal mechanisms of law external to groups were often created precisely so as to emancipate individuals from the tyranny of customary injustice: slaves from masters, blacks from whites, women from men, Protestants from Catholics, Shiites from Sunnis, children from parents, tenants from landlords, workers from employers, untouchables from caste-Hindus, serfs from lords, and on and on. The point is dramatically illustrated by arguments from

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the black community in the United States in the last two decades. On the one hand, blacks have asked in some places for decentralization and greater neighborhood control of criminal justice—especially police service; on the other, they have asked for legal intervention by the federal government to ensure their constitutional rights. They are not confused; whether justice conforms with local opinion depends on one's point of view. It is easy to talk about the necessity for informal social controls, but the question is: control of whom by whom?

Native Americans—Indians, as they are called—know more about the tension between justice and community than any other group in our country. The political objective of many Indians today is expressed in the magical phrase "self-determination without termination"—meaning autonomy to handle their own affairs without losing the special protections afforded the tribes under federal law. This sounds contradictory, and it is. But it is also a profound and poignant expression of the need to balance protection under impersonal law with the autonomy necessary to preserve community. Indians recognize that the criminal justice system is both an ally and a foe. The law saves them sometimes from further exploitation but, at the same time, its intrusive universals undermine customary notions of justice and its processes tend to shift authority outside the tribe.

And so the eighth irony is that *the pursuit of justice by individuals as well as by groups leads to creation of larger systems of discipline that destroy the vitality of small-scale communities. By militating against community, the quest for justice often generates the need for more extensive interference at a later stage, but then not in the interests of justice but of order.*

The argument that intrusion by the criminal justice system, whether in the quest for justice or not, saps the vitality of regulatory processes in small-scale groups may apply not only to families, tribes, castes, and churches, but to modern professional groups as well. The willingness of teachers, doctors, and lawyers to discipline their colleagues, to assume "professional responsibility," may be related to whether society encourages them to do so. Americans tend to believe that by using the big stick of legal liability, professionals can be kept up to the mark. Recently there has been a great upsurge in legal actions against alleged professional incompetence. While this may work to deter egregious error, it may also undermine the resolve of professionals to discipline each other.

When professional judgement is repeatedly called into question by outside agencies, one consequence is a defensive uniting against

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the implied slur. Members of the group may want to suppress information so as not to damage the collective image. Furthermore, external supervision even at best cannot substitute for vigorous internal regulation, for supervision by outsiders is episodic and to succeed requires information that can only be supplied accurately by members of the affected group. Therefore, while the slogan "professional responsibility" has been used to hide ineptitude and regulatory cowardice, it is not clear that external intrusion always raises the level of professional performance—whether of doctors, lawyers, or teachers.

In a nice twist of the argument back on itself, some of America's problems with police misbehavior are perhaps traceable to extensive external regulation. Police scandals are depressingly common in American history, with the result that the public is always willing to believe the worst. Partly because of this history and partly because of American suspicion of self-regulating public bureaucracies, an array of supervisory checks on the police have been created—legal, political, and bureaucratic. Improvements in police behavior, Americans believe, require external supervision. Could it be, however, that external intrusion is part of the problem, that the public's chronic suspicion and meddlesome intrusion have helped to create a dispirited police community unwilling to put its house in order?

Perhaps police behavior, morale, public regard for police, external discipline, and professional responsibility are intertwined. In Japan, for example, the police are proud; they think they are well regarded by the public; they discipline themselves fiercely; their record of conduct is unexcelled in the world; and though external checks exist, they are hardly ever used, for the Japanese police are trusted to regulate themselves.

If reliance on formal external sanctions undermines the vitality with which groups regulate themselves, both in territorial communities and professional groups, then we confront the ninth irony: *American police have perennial problems with misbehavior because, like the society of which they are a part, reliance is placed too extensively on formal mechanisms of discipline located apart from the social world of the individual's everyday life.*

Culture and crime

The second obstacle to acting on the insight that crime, community, and the nature of sanctions are related is that of culture. Countries differ markedly in the value they place on the importance

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of maintaining the integrity, closeness, and salience of primary-group life. The American view of human development is predicated on individuals, not groups. We bristle when the boundaries of our autonomy are crossed—whether by state, colleagues, neighbors, friends, or relatives. As attractive as "community" sounds, we are children of the Reformation, the Enlightenment, and several rebellions from oppression. We are Americans; we are not Chinese or Japanese.

Reducing our American reliance on the criminal justice system would mean detaching ourselves from prized values and practices of the most subtle kind. It would mean adjusting orientations toward family, views about professional obligations, the acceptability of criticizing one's closest associate, the willingness to evaluate others' personal behavior, and the propriety of speaking about morality. Matters like these cannot be changed overnight, even if we should want to. They are bone of our bone. There's the rub, and the tenth irony: *Our problems of criminality, as well as our difficulties in meeting them, are products of our very virtues—specifically, the extent to which we believe in and insist on unprecedented individual freedom.*

Somber as it may be, there is a final change to be rung on this theme. If Americans wanted to create a new sense of community in small non-state groups, where would they find the lever to do so? Americans are understandably reluctant to abandon the universals of law and the process enshrined in the law; justice, indeed, requires as much. Culturally, Americans are committed to counting good things, whether material or spiritual, on the slates of individuals. Groups are backdrops for individual maturation, development, and self-expression; they are not good in themselves.

The concluding irony is, then, that *the form of freedom Americans prize not only undermines the informal discipline that is important for a moral social order; it leaves the state as the only effective instrument for social reconstruction.* Our predicament would seem to be that between ourselves as individuals and the omnicompetent state there are no mediating groups that command our sentiments and our loyalty, and that to revivify *informal* processes of social ordering we have to appeal to *formal* ones. This situation is more than ironic. It is potentially tragic.

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The new censorship of social research

ITHIEL DE SOLA POOL

THIS is a story of bureaucratic elephantiasis. It starts with a 1963 incident in which Sloan-Kettering researchers injected live cancer cells into patients for an experiment. This led the U.S. Public Health Service to seek ways to protect itself from possible scandalous behavior by its grantees. When it made grants, the Public Health Service required the recipient institutions to set up review boards to check that subjects in the experiments it was supporting not be subjected to untoward risks. From those reasonable precautions we have come to a point where regulations by the Department of Health, Education, and Welfare will require that a university student or professor, whether he is funded by HEW or not, secure permission from a censorship board before he even interviews anyone!

In its initial procedures the Public Health Service was sensitive to the dangers of bureaucratic oversight, and asked universities and hospitals to set up their own boards to do the policing. Then in the late 1960's and early 1970's application of the procedures was extended from Public Health Service grants and contracts to grants and contracts by any part of the Department of Health, Education, and Welfare. By 1974 the "E" and "W" parts of HEW discovered that rules and guidelines that had been drafted in the "H" part

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applied to them, too. By that time, "harm" to human subjects had been construed to mean not only physical harm but "psychological" and "social" harm as well. Possible breaches of confidentiality were increasingly treated as justifying Institutional Review Board (IRB) control, as much as did risks of bodily harm.

After 1974 the rules were broadened in still another way. HEW's obligation to protect human subjects was interpreted as requiring the Department to withhold grants from institutions that mistreated human subjects, whether or not the abuse took place in research that HEW was supporting.* Thus, as in affirmative action cases, HEW-aided institutions were told that they had to apply IRB procedures to all research on human subjects, not just to research done under HEW grants.

By 1974 there was enough confusion as to just what the scope of the regulations was, or what it should be, that Congress passed two amendments to the Public Health Service Act. One amendment, in what was called the National Research Act (P.L. 93-348), specifies that applications by an institution to HEW for grants or contracts must be accompanied by "assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an 'Institutional Review Board') to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research."

No definition of "human subject" or of "behavioral research" was given. There was no clue as to whether it included social or political research. The wording is obscure also as to what authority, if any, the Secretary has to control research. The only thing that is clear is that he or she must be assured that an IRB exists. Conscious of the confusion and the variety of ways the rules were being interpreted, Congress also, in another amendment to the Public Health Service Act, mandated the establishment of a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

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*Since this article was drafted, Joan Bernstein, General Counsel of HEW, stated in a letter to *The New York Times* that the present rules apply only to research funded by HEW, but that the proposed rules would apply to all university social research. This interpretation of the present rules is a welcome correction. Universities for some time, however, have been given the clear impression that all research is already bound by the HEW rules and have acted on that understanding. There has been considerable confusion on this issue, and it ought to be straightened out.

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The Secretary appointed to the Commission three M.D.'s, three lawyers, a physiological psychologist, a behavioral biologist in a medical school, a professor of bio-ethics at a medical school, a professor of Christian ethics, and a black woman. No social scientists were included, a clue perhaps to what the Secretary assumed was the Commission's field of action. But the Commission saw its task in grander terms. Unrestrained by humility or wisdom, the Commission after 42 months produced a report that can charitably be described as an ignorant exercise in unabashed authoritarianism.

The Commission chose not to limit itself to protecting subjects from the medical risks with which the whole discussion began, but instead set out to assure the "ethical" conduct of research. Furthermore, it seemed obvious to the Commission that there should be no double standard. The ethical principles that applied to HEW-sponsored research should be applied to all research using human subjects. The Commission also concluded that harm was not just a medical matter; researchers could also do psychological and social harm to their subjects. According to this argument IRB's should not be limited to biomedical or experimental research but should also review social research. Even unfunded questionnaires or survey studies should be subjected to prior review. Having received this report HEW announced a rulemaking, to revise its regulations and to take account of the advice it had been given.

Political scientists, sociologists, historians, and economists, for the most part, did not even know that this attack on their freedom of action was taking place—and indeed most still do not. There had been only sporadic cases in which IRB's had tried to exercise authority beyond questions of physical risk, though the number of such cases was increasing. Internal HEW documents at that time were already referring to the frequent use of IRB's to stop research that might cause political trouble for a university, and to the growing rage of social scientists at the application of IRB procedures to them. For example, an IRB initially tried to stop Michael Ross' interview study of resistance to Boston school desegregation on the ground that the respondents' replies, if subpoenaed, might provide evidence of violation of the law. Cases like that only gradually began to enter the consciousness of the social science community.

The protests received by HEW against the rulemaking, though not many, were enough so that officials of the Department realized they had a thorny problem. The rule drafters tried to solve the problem by drawing up a list of specific kinds of research that would be exempted from review. That list went through various

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drafts, was leaked to the social science associations for their comments, became the focus of an internecine battle between the Secretary's office and the administration of the National Institutes of Health (NIH), but in the end kept social and interview research under prior review, though with specific exceptions.

The proposed regulations that the bureaucracy had prepared, and was pushing on the Secretary, were signed by Joseph Califano —along with a large mass of other papers—only after he was fired, and on his last day in office. Whether, as his friends aver, they slipped through inadvertently in the mass of documents, or, as his enemies assert, they represented his personal belief on which he now had to act, time pressure stopped a process of interest-group conflict that had been impeding action.

And so, on August 14, 1979, the proposed regulations appeared in the *Federal Register* and a comment period ending on November 14 was announced. The regulations are now being revised and can be expected to be finalized about a year from now in a form about which we can only speculate. Thus all we can do at present is describe the ambiguous rules now in force (which are only sporadically enforced, but which in most universities are interpreted as already requiring prior review of political and social interview studies), as well as the quite unambiguous proposed rules.

The proposed rules about "human subjects"

The proposed HEW regulations on research using human subjects contain a definition of a human subject. A human subject is "an individual about whom an investigator (whether professional or student) conducting research obtains 1) data through intervention or interaction with the person, or 2) identifiable information." A conversation or interview is clearly interaction with a person. A file of clippings from newspapers is clearly identifiable information. So if a professor talks to a politician for his research or if a student copies down how Congressmen voted on a bill, they are both "using human subjects" and should get permission from a review board first.

The proposed regulations specify that "prior and continuing review and approval by an Institutional Review Board is required for the conduct of all research involving human subjects not funded by the Department." The sanction behind the requirement is the possible loss of HEW funding for *other projects* at the institution. In other words, the massive HEW support of American universities

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will be used as a sledge hammer to compel prior review of non-HEW research.

The proposed regulations extend the scope of IRB authority far beyond that necessary to prevent harm to subjects. The regulations say that: "In order to give its approval, the Board must determine that all of the following requirements are satisfied: (1) The research methods are appropriate to the objectives of the research and the field of study. . . ." *The censorship board is now to be a judge of scientific soundness!* And the proposed regulations apply to all research "by" or "at" institutions receiving HEW funds. So a university must regulate even the work of a visiting scholar or risk losing its HEW funds.

Thomas Bartlett, the President of the Association of American Universities, has described these regulations as either absurd or revolutionary. If, as is most likely, no one pays much attention to them, they are absurd. If by any chance they ever get enforced, they would be revolutionary. The regulations would change the whole nature of a university, transforming it from a loose community of independent scholars, each doing research at his own will, into a disciplined staff whose research would most certainly be controlled because the actions of each puts at risk the income of all the others.

The regulations would firmly establish prior restraint in America. The recent Wisconsin *Progressive* case (involving a magazine planning to publish an article utilizing mistakenly declassified information on building an atomic bomb) settled little in terms of the larger issues of prior restraint. At most it advanced the notion that under very extreme circumstances there may be exceptions to the general ban. But the HEW rules would establish prior restraint where the embarrassments and annoyances at issue are hardly in the class of nuclear secrets.

The regulations would reverse the ethical norms of the policy sciences. Political scientists and sociologists—like journalists—often see their public duty as that of exposing abuses perpetrated by the very persons they study. Their "human subjects" are not clients. The researcher's primary responsibility may not be to protect and help those subjects, but rather to help and protect the public by exposing the "subjects." The regulations would require all research relations to conform to the model of the helping professions such as medicine. That the proposed regulations are absurd, revolutionary, and unconstitutional is so obvious that we need hardly argue these points further.

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The gestation of the rules

More to the point here is to seek to understand the policy processes that allowed such an onslaught on constitutional freedoms to occur, and that may still allow the regulations to be enacted. Three political mechanisms deserve to be noted:

1. *The Reification of the Possible.* Lauren H. Seiler and James M. Murtha in an article in *Freedom at Issue* (November-December, 1979) note that the Commission could have made a systematic review of the incidence of harm done by social research, but did not:

> Consideration of a few empirical studies was judged sufficient to recommend prior review of virtually all [social] research. . . . A few extreme examples of research using deception were used as a primary basis for justifying regulation for virtually all empirical social research. Rather than recommending regulation from evidence of ethical abuse, the Commission used a technique which might be termed "logical possibility"—considering whether a given research strategy could *possibly* cause harm to subjects or violate ethical principles. Using this criterion, the Commission found potential harm or unethical behavior in all forms of human-subject research.

Not just from the Commission, but in HEW, numerous IRB's, and in casual conversations, social scientists who claim that they have an unabridgable right to do research without reference to the opinion of an IRB, are repeatedly met with the rejoinder, "Do you really think that social research can do no harm?"

Seiler and Murtha have conducted a survey on the actual evidence of harm. Only 2 percent of their sample of chairmen of sociology departments and of IRB's claimed to have *either* first-hand *or* indirect knowledge of any harm to respondents from survey research. Yet 69 percent reported that their IRB felt it necessary to modify or delete items and 49 percent to alter the methods used, and 25 percent of IRB chairmen reported that their board had banned at least one survey study.

2. *Self-Exemption.* HEW officialdom may apply the cautious logic of possibility to research in the outside world, but intramural research by parts of HEW itself is a different matter. The rule drafters—whether in an office for Protection From Research Risks at NIH, or in the General Counsel's offices at NIH or HEW—know that no regulations will survive intramural hurdles if they promise to have the same chilling effect on government research that they will have on extramural research. So in the list of exemptions one will find special escape clauses for the various interest groups within HEW:

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> . . . [R]esearch conducted in established or commonly accepted educational settings, involving normal educational practices, such as (A) research on regular and special education instructional strategies, or (B) research on the effectiveness of or the comparison among instructional techniques, curriculum, or classroom management.

The exemptions protecting that class of research from review will keep the experimenters in the "E" part of HEW happy.

Similarly, another clause exempts other Department interests:

> . . . [R]esearch involving solely the use of survey instruments if: (A) results are recorded in such a manner that subjects cannot be reasonably identified, directly or through identifiers linked to the subjects, or (B) the research [although not exempted under clause (A)] does not deal with sensitive topics, such as sexual behavior, drug or alcohol use, illegal conduct, or family planning.

Why the words "survey instruments" and not the word "interviews"? Formal surveys are done for large organizations like HEW. And in fact, though informal interviews by an individual scholar are far less likely to do significant harm than are large-scale surveys, protecting the work of the individual scholar is of little concern to HEW.

There are other instances in the proposed regulations in which exemptions for "large scale" research are not given to small-scale research. For example, special treatment is given large-scale research on "the effects of proposed social or economic changes" as well as on "research designed to study on a large scale . . . methods or systems for the delivery of or payment for social or health services." What is being exempted here are HEW's own service-provision experiments.

HEW has special reason for wanting those experiments exempted from review—trouble with the National Welfare Rights Organization. In 1975 the latter challenged in court a Georgia Medicaid-HEW co-payment experiment on the grounds that the aid recipients who were undergoing special payment arrangements were "human subjects" and HEW had not followed its own rules requiring IRB review. In *Crane v. Mathews* a federal district court sustained this argument, and HEW chose not to appeal. One effect was to require the Governor of Georgia to establish an IRB, or utilize an existing one. He turned to one in a local university composed almost wholly of biomedical specialists. They concluded there was a risk and so the experiment was banned.

By not appealing *Crane v. Mathews*, HEW allowed a legal precedent to be established to the claim that human-subjects regulation

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applies to social research, but at the same time its own experiments became subject to legal harassment by such groups as welfare mothers. So the proposed rules provide HEW with an exemption against that possibility.

3. *The Game of Congressional Intent.* American courts, when interpreting ambiguous legislative mandates, have always taken account of evidence of congressional intent. In recent years, however, as the burden of legislation has grown, as issues have become more complex, and as it has become harder to get a majority vote out of Congress on complex issues, the Congress has sought short-cuts around the legislative process. The practice of authorizing executive action unless stopped by vote of Congress is one such device by which the balance of initiative between the two branches is reversed. Another is the deliberate establishment of a record of "legislative intent"—usually by means of statements on the Senate and House floors or in committee hearings—without going through the difficult process of getting a majority vote in both houses on the particular matter in question. It is a pernicious development because it gives legal sanction to the views of the small group of interested committee chairmen, who largely establish the records of intent, rather than requiring them to put their views to a plenary vote.

The issues on which legislative intent is most significant in regard to censorship of human-subjects research are whether HEW rules are intended to apply to non-HEW-funded research, and whether they are intended to apply to social and political research. HEW has claimed that its expansive regulations reflect congressional intent.

The organized academic community has made a powerful case "that Congress did not intend to authorize regulation of research not funded by the federal government." Its contention is presented in an appendix to a letter signed by officers of the American Council on Education, the Association of American Universities, the Social Science Research Council, the American Political Science Association, the American Sociological Association, the American Anthropological Association, the American Historical Association, and five other such organizations. Their statement notes that the bill that set up the National Commission for the Protection of Human Subjects treats quite differently the role of the Commission in regard to federal and non-federal research. The law tells the Commission to "develop guidelines" for "the conduct of biomedical and behavioral research involving human subjects," but it asks for "recommendations to the Secretary for such administrative action as

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may be appropriate to apply such guidelines to biomedical and behavioral research conducted or supported under programs administered by the Secretary."

The report of the Senate Committee on Labor and Human Resources made clear the limits of the Commission's authority:

> The Committee agrees with those witnesses who testified that the scope of the inquiry, findings, and procedure of such a national commission should cover all biomedical and behavioral research involving human subjects. But the Committee also recognizes that its jurisdiction is limited to those programs and activities defined in the Public Health Service Act, the Community Mental Health Centers Act and the Development Disabilities Act. . . . *The Committee has therefore limited the jurisdiction of the Commission accordingly.* [Emphasis added.]

In its analysis of the act the committee affirmed that the duties of IRB's "would include responsibility to locally establish policies of review of research *sponsored at least in part by the Department of Health, Education and Welfare.*" [Emphasis added.]

Furthermore, it is hard to conceive that if the U.S. Congress intended to impose pre-censorship on political and social research it would do so through the vehicle of the Public Health Service Act, after ten days of hearings limited to biomedical problems, and without the involvement of any committee but one concerned with health matters!

To a degree HEW has perceived the same points. The Commission wanted IRB censorship extended to social research, but concluded that congressional authorization was necessary for this. The proposed regulations announced by HEW operate differently on HEW-supported and other research. For the former, the rules lay out elaborate details of procedure. For non-HEW-supported research the sole requirement is that IRB's conduct "prior and continuing review" of the studies; the procedures of review are left to the universities.

But how, in light of the record, can HEW find a congressional intent for the requirement of prior and continuing review? The written record provides no answer. What is particularly disturbing is that HEW bureaucrats' "oral answers spoken softly" contain an unprovable and sycophantic claim that the chairman of the Health Subcommittee of the Senate Labor and Human Resources Committee, who happens to be a particularly potent political figure—Senator Edward Kennedy—wants it that way.

Is it true? Probably not. No serious evidence is offered. It is true that the Senate committee, in the non-action clauses of their doc-

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uments, presents much high-flown rhetoric on ethics in research. The charge to the Commission begins with the instruction to "conduct a comprehensive investigation and study to identify the basic ethical principles which should underlie the conduct of biomedical and behavioral research"—a charge better suited to Iran's "Revolutionary Council" than to an American political commission. But there is at least as much reason to suspect that the alleged views of Chairman Kennedy are being used in the game of congressional intent, as there is to believe that he has any considered views on the complex of issues that carry the regulations beyond the biomedical sphere in which the Senator has had a keen interest. Yet the rule-drafting bureaucrats understand well that somewhere in the activities of the committee with which they work they must find a congressional intent, and so they try. They are doing it, after all, in what they believe to be a good cause.

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Hard Realities and Soft Social Science

HARRY L. MILLER

THE universities have been quiet for almost a decade, but a legacy of the 1960's far more significant than campus turbulence now troubles academia. Many young faculty and graduate students of that earlier period are now in established positions in the social sciences and in such applied fields as education and social work. Their basic commitment to the use of the university and its disciplines in the service of an unrelenting political activism provides the framework for many of the serious controversies in the journals in both pure and applied social science. Explanations of social phenomena that became familiar in the 1930's, as significant numbers of American intellectuals turned radical, have been increasingly carried to extremes, and social-scientific differences of judgment are transformed into major wars.

A now familiar phenomenon, for example, is the eruption of national uproars over findings from almost any nationwide, important study that fails to support radical assumptions, beginning with the study of equal educational opportunity by Coleman and his colleagues in the mid-1960's.[1] The drumbeat of condemnation in the journals spilled over in an almost unprecedented way into the mass media, in a campaign that lasted nearly five years. Similar attacks on a somewhat smaller scale greeted the publication of findings of the national Head Start evaluation, Christopher Jencks' book analyzing the available data on the influence of family and schooling on social and economic equality, and most recently the national evaluation of planned variations in the Follow Through program.[2] The attack on Arthur Jensen for his work on the heritability of intelligence was in a class by itself; few scientists of Jensen's caliber must bear with having their scholarly work publicly condemned by votes among members of several scientific associations. The vendetta against Jensen continues still, although there are now signs that those who defended his right to study the problem, and Jensen himself, are getting a better hearing in the social-scientific community.

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All of this research had flaws, and debate must surely be encouraged over the scientific merit of such efforts to find answers to controversial social questions. But the savage and often personal attacks that characterized much of the criticism appeared to be due less to a regard for the canons of scientific evidence than to the fact that the findings happened to contradict established radical assumptions.

Some leftists (not many, fortunately) have followed the earlier lead of C. Wright Mills in condemning empirical social research itself, or in giving particular political values primacy over the results of controlled empirical investigation.[3] Recently, for example, in an article called "Scientific Paradigms and Social Values," Edward Sampson of Clark University refers to the "naturalistic conception of science" as Paradigm I and a new conception as Paradigm II.[4] In the first, facts appear in "abstract, general, and universal forms," an approach to the truth appropriate to "Puritan Protestantism, individualism, male dominance, selective equality, private property, and capitalism." In Paradigm II, facts appear in "concrete, situated, and particularistic forms," suitable to a society ineluctably (and happily, in Sampson's view) on its way to collectivism. Sampson advocates, at least in the short run, that we "undergo a paradigm shift, wherein Paradigm II gains equal-status partnership and legitimacy with Paradigm I science." What is to be done when the particularistic and the intuitive come to conclusions in conflict with those arrived at through general and universalistic methods, he does not satisfactorily explain.

Similar reasoning has led to a long debate in Sweden about soft-data sociology, a proposal for a "new" sociology of education in Great Britain, and calls for a "black sociology" and "Chicano sociology" in this country.[5] For all of their talk about science, these, too, seem primarily to be reactions to the increasing tendency of the best controlled social science to undermine liberal and radical convictions about social causation.

There is nothing, of course, in the nature of man and society that would lead us to expect empirical social-science research to support radical, liberal, or conservative assumptions. For example, in the 1930's and 1940's long-established convictions about the importance of race for intelligence were cast into doubt by the research of Otto Klineberg and others on the variability of I.Q., depending on social conditions. But recent empirical research has tended, in a number of significant cases, to emphasize the difficulty of changing people through changing social conditions. This does mount a challenge to liberal and radical views.

With Rousseau, social activists tend to believe that man is by nature good, corrupted by an evil society; social evils, from murder to failure in school, are attributed to the social situation, not to people's own impulses or characters. As man would be good if it were not for his social environment, so he would be equal to all others if a maleficent social system had not distorted his abilities.

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The logic of radical change or liberal reform requires a moldable organism—for if people are to be made equal, it must be possible for social intervention and treatment to change them radically for the better with comparative ease.

Because plausible scientific evidence of causation in the social sciences has been difficult to establish, the causal flow of relationships between phenomena can often be interpreted as going either way, depending on the world view the interpreter fancies. For over a generation, many of the dominant explanations for the state of things in our important institutions were generated within a liberal framework and its assumptions about causation. Is the crime rate among those who have been to tough prisons higher than among those who have not? Then prisons obviously teach people to be criminals. (But, perhaps the reverse is true, and the worst criminals are more likely to end up in the tough prisons.) Do satisfied workers have bosses who supervise loosely? Then if we teach bosses not to supervise closely we can increase the number of happy workers, the liberal explanation runs. (Or, is supervisory style a reaction to happy or unhappy work groups?) Do children who don't get proper breakfasts have difficulty in learning, as advocates of federal food programs insist? (Or, are children with learning difficulties likely to be members of families who do not provide either pressures to learn in school, *or* good breakfasts?) Do children's positive views of themselves derive from positive evaluations by adults around them? (Or, do adults feel positively about children with strong egos, hence high self-esteem?)

The contrast in fundamental beliefs among these dual statements of causal hypotheses samples a familiar conflict between the confidence that we can change people by manipulating their social and small group environment, and the acceptance of limits to change—limits imposed by individual capabilities as well as those inherent in the human animal. It is a conflict between what Charles Frankel called "the faith that the old notion of Divine Design can be replaced by an almost equally encompassing notion of Human Design"[6] and the belief that there are realities of human need and motivation that are not very likely (outside of a concentration camp) to yield to our manipulation.

There is creditable evidence, to be sure, that intense control of environment over long periods of time can change people's behavior, though not, unfortunately, in the direction of making them just, good, and cooperative. The beliefs of social activists about causation seem to depend instead on the softest of stimuli, the expectations of others: supervisors, teachers, work groups. As the tools of social research and quantitative analysis grow more sophisticated, however, it has become more difficult to support the soft cause against the hard reality.

THE "human relations" approach to organization theory began in the 1920's in part as a reaction to the industrial engineering of

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Frederick Taylor, who believed that management's job was to find the most efficient way of doing a job, then the best incentive for getting workers to do it just that way. The "human side of management" movement regarded this view as not only inhumane (they grossly misread Taylor), but self-defeating. Workers refuse to be merely machines, it was claimed; they find ways of resisting managerial pressures and, when they can, also find ways of sabotaging operations.

Increasing the productivity of workers in all settings, ran the argument, depends primarily on recognizing their search for psychological satisfaction in the workplace as in every sphere of life. Everyone, no matter how routine his job, is eager for gratifications derived from social interactions with the members of his work group, from the respect and recognition given to his work by others, and from his own sense of achievement. Management's job is to humanize the organization by helping workers attain these gratifications, which are much more important than material rewards. As work becomes more personally satisfying, it will improve in quality and rise in quantity.

There never was very much empirical evidence for one of the links in this theory, the claim that worker satisfaction resulted in higher productivity. By the 1960's a good deal of evidence had in fact accumulated to the contrary; either "satisfaction" and "productivity" were independent or, as some data indicated, productive workers felt satisfied *because* they had been productive.[7] The more important question, however, is that of managerial style, because an entire generation of managers in industry and social services had been trained to believe that managerial interest in the self-enhancement of the worker was far more important in getting work done than the state of the labor market, pay, the calculus of self-interest, managerial pressures for standards, or any of the other realities of the workplace.

The role that management expectations played was best expressed by Douglas McGregor's very popular conception of the Theory X and Theory Y managers.[8] Theory X is the belief that workers are motivated only by money, that they prefer to do as little work as possible, that creativity and the willingness to take responsibility can be found only among a minority of workers. Managers with this set of beliefs, said McGregor, treat workers accordingly and workers then respond to them *as if* the beliefs were true. Theory Y, on the other hand, assumes that most workers at every occupational level are motivated by the need to achieve and to realize themselves, that under the proper conditions they like work, and are both creative and willing to take responsibility. Managers who believe in Theory Y structure work conditions accordingly, and workers respond as if that theory were true. The unexamined assumption of this conception is, of course, that leader behavior is the primary cause of worker behavior.

Leadership style is well suited to experimental test, because

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groups of subjects may be easily put to work on tasks in laboratory situations. Leader behavior, typically, is then varied (the authoritarian vs. the democratic, etc.) and group productivity and satisfaction as well as other outcomes are measured. Most such experimental groups consist of college students, considerably restricting the generalizability of the results, but there is little to generalize in any event. The large body of such experimentation shows a great deal of contradictory evidence about the impact of leaders' behavior.[9]

Aaron Lowin and James Craig developed a most ingenious experimental test of the reverse hypothesis: that the productivity of subordinates influences the style of the manager.[10] They recruited subjects through a college newspaper ad for a position supervising a group of Job Corpsmen doing secretarial work. Immediately after the interview in which they were hired, each subject was asked to supervise one of the Corpsmen in the next office, while the interviewer left "to handle an emergency." The behavior and competence of the fake Corpsmen were systematically varied, and observations were made of the leadership behavior of each subject: how closely he supervised, and the amount of pressure he exerted toward work goals. The findings neatly support the conclusion that the causal direction usually ignored, namely, that followers affect leaders, is at least as important as the human relations assumption.

Lowin and Craig's experiment is an excellent example of how causal assumptions may be undermined by the development of better controls in the process of hypothesis-testing. The development and wider use of multivariate techniques of analysis in the social sciences also increasingly casts doubt on the beliefs of the human relations school. Their assumptions were early provided with what appeared to be firm support in the well-known Hawthorne experiments conducted from 1924 to 1933, at the Western Electric plant of that name.[11] Among the most famous of these studies was the Relay Room experiment, in which the investigators varied the working conditions of a group of assembly workers and concluded that variations in incentive payments, hours worked, or indeed any other form of managerial intervention, had very little to do with productivity. Workers' output depended instead on the quality of human relations between management and the work group, and on the structure of relations within the group itself.

These conclusions were based on close and prolonged observation of the work group; adequate tools of quantitative analysis were not available at the time. But new techniques of time-series analysis can easily handle the type of data collected by the Hawthorne researchers, and Richard Franke and James Kaul recently dug the measures out of dusty files in the Hawthorne plant and came up with answers sharply at variance with the original conclusions.[12] During the period of the experiment, the Relay group increased their production from 50 units per worker per hour to nearly 72 units. Franke and Kaul's equations account for 97 percent of that

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increase: 79 percent is due to managerial discipline; an additional 14 percent to economic depression; and scheduled rest times explain 4 percent. As they observe with understandable asperity in their report, "In the social sciences—particularly where complex beliefs and processes are involved—there seems to be no substitute for quantitative analysis."[13]

Empirical social science does not play any favorites—nor can we expect it to. The human relations in management school was fiercely attacked by leftist and labor-oriented sociologists who argued that workers would not, or should not, be gulled by socially skilled managers, and that only the hard realities of wages, hours, working conditions, and power could affect workers. It has turned out that recent social research, casting doubt on one of the cornerstone researches supporting the human relations in management position, is consistent with this critique.

One of the most challenging problems in all of social science has been untangling the environmental and genetic influences of the family on children's intellectual, occupational, and economic attainments. The educational level of parents correlates fairly well with both school achievement and mental ability test scores of their children. This correlation is usually assumed to indicate the strength of the influence of environment on school success, since parents with more years of schooling tend to expect their children to do well in school and create a richer educational environment in the home than do poorly educated parents. If the causal connection runs from the rich family environment to the academic-ability level of the child, then it makes sense to try to induce all parents to provide more educative environments, as a way of improving school performance of educationally disadvantaged children.

If mental ability is to some extent inherited, however, a different set of causal linkages may be involved: Parents possessing high levels of mental ability will tend to spend more years in school than others do, will pass on some of their ability to their children, *and* will create more educative home environments. In this view, correlation between home environment and the child's academic performance may mask a more important genetic relation between parents' abilities and children's abilities.

Sandra Scarr and Richard Weinberg have recently tested this latter hypothesis by arduously collecting the variety of data needed.[14] They invited a number of parents to bring their teenage children to the University of Minnesota for several hours of testing. Some children were natural sons and daughters, others were adopted. Parents and children were both tested using the Wechsler scale of I.Q., and parents' education was used as a measure of home environment. With correlations available between natural children and parents, adopted children and parents, and among siblings, a multiple regression analysis demonstrated clearly that genetic differences, instead of environmental differences, account for the major

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part of the long-term effects of "family background" on adolescents' I.Q.

A related problem of considerable interest involves a dispute over the causal flow between basic, hard-to-change conceptual-ability scores, and specific skills and knowledge. Before the shift to an almost pure environmentalism a generation ago, educators and the general public agreed that a child's fundamental, general ability (Spearman called it *fluid* intelligence) explained to a considerable degree, though by no means entirely, the level of school learning likely to be attained. Current doctrine reverses the causal flow by claiming that learning specific knowledge and cognitive skills results in higher levels of performance on measures of basic aptitude. So, the argument runs, school achievement differences among children of different social-class levels, are due, not to differences in I.Q., but to the fact that teachers and parents encourage middle-class children to learn, thus boosting their I.Q.'s. The vociferous and widespread campaign to eliminate the entire concept of I.Q. from education is based on belief in that proposition and the manifest social-class inequity it suggests.

Using two sets of measures taken with a time lag between them, it is possible to cross-correlate I.Q. scores and school-achievement scores to obtain very good evidence on the direction of causal flow. William Crano and his associates analyzed both scores for a large sample of Milwaukee children and found that the preponderant sequence is from the abstract to the concrete—that is, basic ability led to specific achievement.[15]

The perspective that came to be called "labeling" is generally regarded as having begun in the field of criminology, and in it one sees the flowering of the idea that social behavior of all kinds is simply a response to expectations of others. Frank Tannenbaum in the late 1930's introduced the idea of "dramatization of evil," a process in which public identification as a criminal supposedly induces the labeled person to develop a self-concept as a criminal, resulting in further law-breaking activity. In his 1963 book *Outsiders*, Howard Becker applied the theory more generally to all types of deviance and used the term "labeling," which became widespread almost immediately. (Becker's became the most frequently cited name in articles on delinquency, crime, and in time mental health and education.)

Labeling came, somewhat later, to be used as one of the major justifications offered by advocates of deinstitutionalizing the mentally ill and handicapped, and of community treatment programs for delinquents. Thus it has been argued (against substantial contrary evidence from controlled research) that delinquents released to community probation or treatment will exhibit less deviant behavior than similar youths labeled by assignment to forced detention.[16] The passivity of many mental patients in institutions is attributed not to the fact that only the most severely ill or retarded are now in institutions, but to "learned helplessness."[17]

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The considerable literature on "learned helplessness" turns out on inspection to be based on studies of small children, with ambiguous findings that are directly and with little apology applied to adult mental patients in hospitals. Sophisticated research is not necessary to cast doubt on the hypothesis; Stanley Lehmann and his associates interviewed a number of patients admitted to the hospital from a community mental-health center and found that there is indeed a "marked tendency for some mental patients to find the atmosphere of the mental hospital congenial to their needs."[18] But, for those who remained in the hospital the longest, they found "social needs were more important than needs associated with a sick role." The hospital was not training patients to be helpless; rather, some patients were actively selecting what appeared to them a more social environment.

One of the most interesting applications of labeling theory, and the one most publicly dramatized, is in the controversy over the "Pygmalion Effect." The story is a familiar one by now, and needs only a brief summary here. In a number of articles published throughout the 1960's, Kenneth Clark and others popularized the accusation that black children's low achievement levels in school were due to the prejudice of the teachers. The teachers labeled them "stupid," or at best "slow learners," the children accepted the label and through a "self-fulfilling prophecy" created their own failures. The alternative explanation, more sensible than dramatic, suggests that most teachers develop accurate and realistic expectations of their pupils' academic ability on the basis of the pupils' own consistent performances.

In a most ingenious experiment, Robert Rosenthal and Lenore Jacobson put the existence of such a mechanism to the test.[19] They administered a mental-ability test to the children in a San Francisco elementary school, giving the teachers the story that they were developing a test for identifying "late bloomers." When the teachers returned in the fall, they were offered lists of those pupils whom the Harvard test predicted might suddenly, this year, demonstrate a spurt in academic performance. The children on the list had, in fact, been randomly selected from each class.

In a classic example of media hype, the results of the experiment were hailed nationally as proof of Clark's claim. The sober truth was that of the seven grades in the school (K-6) the children about whom teachers were given inflated expectations did reliably better academically only in the kindergarten and first grade when retested the following spring. Most of the teachers could not even recall the names of the "late bloomers" the experimenters had provided. The study received its death blow when Robert Thorndike, one of the most respected of educational-measurement experts, took the trouble of examining the actual mental-ability scores at each grade, and found that some of the class averages among the younger pupils were clearly out of line, far too low for an average group of children in a run-of-the-mill school. Thus, in the only grades in

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which the Pygmalion Effect had been demonstrated, he concluded that the mental-ability scores were too unreliable to be taken seriously.[20]

In the ensuing years about 60 different studies, some of them direct replications of the Rosenthal-Jacobson experiment, were carried out. No study with a reasonable sample size and an acceptable control group showed a teacher-expectancy effect that exceeded chance. In the one apparent exception, an experiment using mathematics sections at the Air Force Academy, it turned out that the deceptive expectancies influenced not the mathematical performance of the cadets, but the grading behavior of the instructors.[21]

Most of the reviews of these studies report on the proportion of them that show results *in the direction of* a teacher expectancy hypothesis, without regard to the fact that the studies themselves are a hodgepodge of good and bad designs in a great variety of noncomparable settings. None of them pays the slightest attention to the magnitude of the effects observed, which are invariably very small. Indeed, compared with the consistent impact on pupil achievement of a measure such as I.Q., they are miniscule. The most recent of the Pygmalion research reviews, an unusually careful one, comes to a considerably more sober conclusion than most. In it, Harris Cooper suggests that if the evidence supports any expectancy effect at all, it is that teacher expectations may sustain already existing achievement levels.[22]

As in so many other cases, one significant feature of almost all this research was the absence of any test of the competing explanation: that the causal linkage runs from children's performance to teacher expectancy. Two cross-lagged longitudinal analyses reach somewhat different results. Lloyd Humphreys and June Stubbs found very clear evidence for grades causing expectations rather than the reverse, a conclusion supported by a path analysis by Trevor Williams.[23] William Crano and his associates report that in their sample both causal flows were evident, the strongest being the effect of teacher expectations on pupil performance, but they finally conclude that the two flows are probably reciprocal rather than in the form of a single causal chain.[24]

ULTIMATELY, many of those still convinced that the expectations thesis is correct turned to ethnography, abandoning a scientific process that kept producing "no difference" results. Since labeling theory had to be true, science must be wrong. From the early 1970's to the present, a gradually increasing number of journal reports have featured informal descriptions of classroom interactions based on observations by a single observer over periods of time ranging from a few months to several years. Many of these studies by observers in careful control of their own biases are very useful and suggestive, rich ores for mining hypotheses. A sizeable proportion of them, however, are clearly efforts to prove a belief in labeling or some other fashionable activist conviction, and to demonstrate

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that all teachers subtly abuse children who are not middle-class and high-ability learners.

One example is by Bud Khleif, of the University of New Hampshire, who set out to gather evidence showing that teachers "role distance" themselves from slow learners.[25] He observed ten teachers assigned to teach groups of slow learners, and described the antagonistic, slighting, angry, contemptuous, and humiliating behavior of the teachers. One must suppose in reading it that not one of those ten teachers ever said a positive word or provided support or help to any child in his classes. The damning evidence consists of such reported behavior as "obsession with straightening out and rearranging books, notebooks, and pen-and-pencil containers on top of desk," "changes in teacher movement through the classroom from overall roaming and pupil contact to sitting at desk or restriction to pacing incessantly before desk," and "distressed or resigned gestures—winks, blinks, grunts, furtive glances, and shrugged shoulders, and, more rarely, tears or a demeanor of cold fury."

It is charitable to suppose that Khleif has never watched a mother penned up with her own children for several hours. Although he reports that "some" observations were made of "some" of the same teachers in charge of regular, non-slow classes, he does not tell us how they behave there. His concluding statements, however, are somewhat more guarded than most found in this genre: "While this paper confirms a Pygmalion effect as a result of teacher perceptions of slow learners, . . . it does not preclude consideration of the alternate explanation that teacher role-distance behavior might be a response to pupil behavior."

No such generous admission can be found in the work of Ray Rist, of Washington University, one of whose ethnographic studies of the classroom has been printed in the prestigious pages of the *Harvard Educational Review,* and who offered a workshop in his method at the last American Educational Research Association annual meeting. In an often cited article he describes his conclusions from observations of a single class made during their kindergarten, first-, and second-grade years.[26] All the children were black, as were all the teachers and administrators in the school.

In the early paragraphs of his report Rist establishes, with disarming candor, his expectations of what he would find in his observations: that teacher expectations of academic performance determine how teachers behave toward pupils and the differences in the amount of attention they provide, which in turn determines how well children progress. A page of the report is devoted to *Methodology,* but contains no mention of the reliability of the observations of a single observer with self-confessed bias.

Rist reports that the teacher assigned pupils to three different seating groups early in the year on the basis, he says, of such external criteria as dress, behavior, degree of verbalization, mannerisms, and the like. (He apparently did not ask the teacher the basis for her seating.) Table 1, those who became the favorites, were

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nicely dressed in clean clothes, those at Tables 2 and 3 were poorly dressed. He discusses other differences—such as body odor, "blackness," hair style and condition, language usage, social class—all of which favored Table 1 children.

Rist does provide some numbers, among them the distribution of children at each table on a number of social-status indicators such as income and education of parents. If the teacher, as Rist claims, was determined to separate middle-class children at Table 1, so she could then ignore the others, she did not do a very good job. Although of the thirty the only four children whose mothers had gone to college did wind up at Table 1, the eighteen children whose mothers had attended high school were fairly evenly divided among the three tables: seven, six, five. About half the children at Tables 2 and 3 were below the poverty level (as "estimated" by Rist from the occupation of the parents), but the other half of the families lived on incomes between poverty and $12,000, along with six of the ten children at Table 1. (The other four at Table 1 had incomes above $12,000.)

A contingency test would no doubt show a better-than-chance distribution of children by social class, but not to any greater degree than ordinary social-class differences in academic ability would justify. (If this were an integrated school, and Table 1 contained mostly white children, one can imagine what the labeling theorist would have to say about the race prejudice of the teacher.)

It is no surprise, in any case, to find Rist supporting his own hypotheses by the end of the descriptive report. Nor, like other soft-data advocates who philosophically claim that truth is particular and situational, does Rist hesitate to generalize from one case to the universal. Even if an army of observers trained to high levels of inter-rater reliability had taken turns doing the observation and had emerged with the same data, a description of one teacher out of the 2,500,000 in the country's schools could hardly justify Rist's confidence in his conclusions.

ANOTHER strategy of academic radicals is to cite repeatedly some modest piece of evidence, or the work of a well-known person, while ignoring the existence of a mass of contrary empirical evidence. Each such citation can then be cited in a later article in another journal, thus accumulating what appears to be a considerable support for the expectancy hypothesis. Few readers ever bother to check the original research cited in this way. For example, one hypothesis claims that the reason boys in elementary grades read less well than girls is that teachers expect boys to read less well. A study by Michael Palardy several decades ago is widely cited in the literature as proving this claim, though an examination of the article itself reveals that in the analysis of variance of reading scores in the subject classrooms the main effect of sex differences does not exceed chance.[27] A review within the past year of the evidence on teacher-expectancy effects, by Wendy Gollub

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and Earline Sloan, simply ignored the mass of contrary evidence from controlled studies and reported a few ethnographic studies like Rist's as conclusive. The journal headed the article with the line: "Evidence of teacher bias continues to accumulate."[28]

A different and a much more respectable strategy for academic mythmaking involves doing very careful quantitative analysis, finding a very small effect for expectancy hypothesis, then ignoring the magnitude of the effect. Karl Alexander's work on high-school-curriculum tracking offers a good example. Placement in a non-college preparatory track is, of course, a cue to adolescents of the expectation their school has about their educational future. Labeling theory predicts, then, that students placed in non-college tracks will respond to the low-expectation level and do less well academically than students of the same ability and socioeconomic level placed in a college track. Alexander and his associates have performed very complex and careful analyses, using the most sophisticated models available, and have found that placement in a non-college track independently explains none of the verbal achievement differences in the senior year, a bit of the math achievement differences, and modestly influences whether students apply to college at all. "In the prediction of application to college, the addition of track membership to the equation containing background and pre-enrollment controls, increases the coefficient of determination 4 percent."[29] Four percent is less than the probable measurement error of the standardized tests involved in the study, and considerably less than the error to be expected in the other measures. But, in the study summary at the head of the article, which is what many rely on, the authors state that "curriculum placement has important effects on educational outcomes in the junior and senior years," a conclusion that will surely stay in the literature forever.

Attribution of a finding to an august or popular scientist may broaden the mythmaking process. In a letter in *Contemporary Sociology,* Steven Goldberg notes that about 90 percent of introductory texts in sociology begin their sections on sex roles by citing Margaret Mead's famous study of three primitive societies. The authors of these texts, Goldberg writes, believe that in that work Mead shows:

> that male and female temperaments are, in Tchambuli society, the reverse of those found in our society and that this demonstrates that sexual temperaments are rooted primarily in social, rather than physiological factors. The problem is that not only did Mead not demonstrate such role reversal among the Tchambuli, but she did not even *claim* to.[30]

Goldberg proceeds to quote Mead herself in a published letter denying that she had ever suggested that there are not universal and actual sex differences. He goes on to write:

> Moreover, in reviewing my *The Inevitability of Patriarchy*—which argues that every society without exception associates dominance in

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hierarchies and male-female relationships with males and associates high-status, non-maternal roles (whichever they be in any individual society) with males—Mead wrote that the evidence I present is "accurate" and "persuasive" and adds that "it is true . . . that all the claims so glibly made about societies ruled by women are nonsense. We have no reason to believe that they ever existed . . . men have always been the leaders in public affairs and the final authorities at home."[31]

THE belief that we can simply wish away social deviance, mental handicaps, and the bottom half of the normal distribution curve of ability, presents some tricky policy problems. The obvious policy line that results from the conviction that reform schools teach the young to be criminal and that hospitals teach the mentally ill to be dependent has over the past decade sent many delinquents back to their own drug- and crime-ridden neighborhoods and set thousands of poor, muddled, and resourceless people adrift in the large cities.

It is the school, however, that has been most affected by this extreme form of situational determinism. The acceptance of a wide range of individual differences in ability and motivation, as a result of a complex mix of hereditary, early environmental, cultural, and random influences, keeps educators close to the reality principle, and encourages the development of a variety of curricula and methods that provide useful paths to adulthood. If individual differences in performance are attributed to the expectations of teachers and administrators, and if these differences persist in the face of heroic and expensive efforts, then what policy makes any sense at all? One can, with Ivan Illich, respond with the demand for elimination of schools altogether, an academic exercise of considerable interest but not even of remote practical concern. In the world of real options, the policy dilemma has elicited a number of more or less bizarre solutions.

One is to eliminate, if not the ability differences themselves, at least their accurate measurement by standardized tests. So effective is the campaign to do so, that one finds oneself these days apologizing for suggesting the use of norm-referenced tests even in educational research. The attack on standardized prediction tests has been especially fierce, and Congress is now considering a bill that, by forcing the disclosure of all test items after a test is administered, will make using tests like the SAT much more expensive and difficult. Ralph Nader has recently published an attack on all college-admissions ability tests and complains that he sees no reason why college-admission offices should not simply look at the high school clubs and committees that applicants have been active in.[32]

Another solution advocated by radical critics of the schools a decade ago was to make the school accountable by threatening a variety of dire consequences if students were not achieving at ac-

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ceptable levels. A strange alliance of radicals and state legislative conservatives (with their separate cost-cutting agenda) pushed through a variety of accountability bills in most of the states, and the bandwagon was in motion. The latest version of the accountability impulse, the minimum-competency movement, makes the granting of a high school diploma contingent on an individual student's ability to demonstrate a minimally acceptable level of academic performance. Appalled at the idea of holding students responsible for their own learning achievement, most educational radicals have now dropped off the bandwagon, leaving behind a truly frightful political mess. If the competency level of the test is set low enough for the majority of current high school students to pass, the test is widely recognized as meaningless. If the level is set high enough to be of some assurance to an employer or a higher-education admissions officer, so many students will fail the test that the schools are unlikely to be able to handle the resultant political flak.

Finally, and in the long run most importantly, unhappiness with apparently ineradicable individual differences of ability encourages an attack on any curriculum standards at all for the public school, for they permit inequities of result. The clearest recent expression of this logic can be found in an article by Robert Gehlbach, addressing the problem of individual aptitude differences. All research on the effects of instruction shows high correlations between the performance of pupils at the end of the treatment with initial measures of their aptitude for the particular learning involved. Gehlbach argues that such "steep Aptitude/Treatment regressions are against the best interests of universal public education," and that if we could eradicate them from the schools, we "would remove instructional processes from the list of social forces that maintain inequalities of opportunity and achievement in our society."[33] As William Rohwer, a radical psychologist, even more plainly puts it, the public schools must teach only what most adults in the society are capable of mastering.[34]

We may be at the threshold of final proof of the thesis advanced by some participants in the great early-nineteenth-century debate over the establishment of public schools, that such schools would inevitably become stigmatized as schools for paupers. A refusal to accept the realities of individual differences in ability can only hasten the disappearance of the urban middle class from the public schools, an end toward which we are already rapidly moving.

NOTES

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[2] Christopher Jencks, *et. al., Inequality, A Reassessment of Family and Schooling* (New York: Basic Books, 1972); for early criticisms, see *Harvard Education Review, 43* (1973), 37-138; *School Review, 81* (1973), 611-42; *Sociology*

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of Education, 46 (Fall 1973), 427-70.

[3] C. Wright Mills, *The Sociological Imagination* (New York: Oxford University Press, 1959).

[4] Edward E. Sampson, "Scientific Paradigms and Social Values," *Journal of Personality and Social Psychology, 36* (1979), 73-90.

[5] A thorough review of the Swedish scene may be found in Ingalill Eriksson, "Soft-Data Sociology," *Acta Sociologica, 21* (1978), 103-124; Geoffrey Esland's *The Construction of Reality* (New York: Harper and Row, 1977) is one of a number of British works; a representative black sociology position may be found in Wade Nobles' "Toward an Empirical and Theoretical Framework for Defining Black Families," *Journal of Marriage and the Family* (November 1978), 679-688.

[6] Charles Frankel, "Sociology and Its Critics," *Commentary* (July 1979), 47.

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[12] Richard H. Franke and James D. Kaul, "The Hawthorne Experiments: First Statistical Interpretation," *American Sociological Review, 43* (1978), 623-43.

[13] *Ibid.,* 637-38.

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[15] William D. Crano, *et al.,* "Does Intelligence Cause Achievement? A Cross-Lagged Panel Analysis," *Journal of Education Psychology, 63* (1972), 258-75.

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[17] Robert F. DeVellis, "Learned Helplessness in Institutions," *Mental Retardation* (October 1977), 10-13.

[18] Stanley Lehmann, Stephen Mitchell, and Barbara Cohen, "Environmental Adaptation of the Mental Patient," *American Journal of Community Psychology, 6* (1978), 122.

[19] Robert Rosenthal and Lenore Jacobson, *Pygmalion in the Classroom* (New York: Holt, Rinehart and Winston, 1968).

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CURRENT READING

Orphan Drugs

There is, according to Louis Lasagna (*Regulation*, November/December 1979), a new class of drugs. Throttled by FDA regulation that discourages drug companies from developing unprofitable "public service" products, these "orphan" drugs may never be "adopted":

> There is a simple chemical relative of EDTA (a "chelating" or "leeching" agent used to treat lead poisoning) that is the most effective agent known for reducing plutonium in the body if given by intravenous injection promptly after exposure to radiation. Needless to say, health officers in the few laboratories where plutonium accidents might occur wanted to stock this drug in case of emergency. Moreover, the scientists in the company that discovered it persuaded management that it had a moral obligation to make the material available. The scientists also foresaw diagnostic utility for the drug in two other uncommon, and hence commercially unattractive, clinical situations: low-level lead intoxication and iron overload. In these instances, a single modest dose of the drug would suffice.
>
> So far so good. But now enter the federal government in the form of the Food and Drug Administration (FDA).
>
> The FDA demanded long-term toxicity tests at three different dose levels in each of two animal species before the drug could be approved (though the drug had already been given to animals in large intravenous doses daily for a month, without harm). In other words, the FDA wanted a full-scale project typical of that required to market an ordinary drug—a project of the sort that costs upwards of $50 million these days. But what was involved here was a drug whose market potential was, to put it mildly, negligible. In the end, the company decided that while it was willing to manufacture a "public service" drug on which it would lose money, it did not feel obliged to fight for the privilege. The project was dropped.
>
> One might think this to be an isolated case. Not so. It is merely another in a long series of "orphan drug" cases—where an agent with exciting potential for treating human disease is blocked through lack of interest on the part of the people and institutions whose commitment is necessary for bringing it to market. The reasons for "orphanization" are many. But one point is central to them all—orphan drugs do not fit the mold in which the FDA's usual regulatory process is cast

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or the mold of pharmaceutical company thought that typically goes with it.

Another orphan, carnitine, illustrates aspects of this problem that are in some ways quite different from those of the EDTA analogue.

In 1964, a French pharmaceutical firm (Labaz) asked Pfizer, Incorporated, if it had any interest in the possible antihyperthyroid activity of carnitine, a naturally occurring biological substance present in most mammalian tissue, with relatively high concentrations in the heart. Pfizer asked Stephen De Felice, a young doctor working in its laboratories, to check it out clinically. To his surprise, De Felice found that three classically hyperthyroid patients, when given carnitine, became free of their symptoms within a week, with their abnormally rapid pulse rates dropping toward normal. Moreover, during the course of these experiments, one patient reported that his angina pectoris was better for the first time in years. De Felice recalled this observation later, after a thorough reading of the world literature on carnitine, and postulated that carnitine could provide needed metabolic fuel to a heart with a partially blocked blood supply. He arrived at this idea quickly enough, but it took the next 13 years to test it successfully in humans.

First, through cardiovascular experiments in dogs, it was learned that carnitine protected the heart against coronary artery spasm or occlusion. Next, the drug was found to protect both dogs and guinea pigs against the toxic effects of diphtheria toxin and, in the case of anesthetized dogs and pigs, to stimulate heart function and to offset the cardiodepressant effects of several drugs. Also it could protect dogs against the lethal shock caused by toxins produced by bacteria. Most amazing, in some respects, was the ability of carnitine to protect animals against the severe cardiac toxicity of two powerful anticancer drugs without impairing the antitumor activity if those drugs.

Not unreasonably, De Felice expected that academic and industrial experts would be as excited as he was. But not so. The findings were almost too good to be true, and there was no precedent for this kind of drug. Furthermore, most of the data were unpublished and hence could be said not to have passed the critical scrutiny of editorial referees. The data were unpublished for a good reason—the absence of a secure patent position. One cannot patent a natural substance as such, and a "use" patent was not really sufficient in this case because of the possibility that carnitine would have numerous uses. Suppose, for example, one had a valid patent for its efficacy in heart disease and carnitine turned out to be good for headache or something else? How could one guarantee to an interested company that some johnny-come-lately competitor would not make off with the biggest market?

But De Felice was not to be denied. In 1969, having left Pfizer, he began clinical trials in Costa Rica and Yugoslavia with the aid of a modest $15,000 grant from a German company. The initial results were disappointing. Indeed, had it not been for a single patient in shock (stemming from bacterial infection) whose blood pressure responded after carnitine, human studies might have stopped. But because of this

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case, two University of Wisconsin scientists recommended that carnitine be tried in coronary patients subjected to electrical stimulation of the heart. To De Felice's surprise, the study showed that carnitine allowed diseased human hearts to respond better and longer to such "atrial pacing." The conclusions were then confirmed through tests on patients in whom angina would be precipitated by exertion on a bicycle or treadmill.

Meanwhile, back at the front office, company after company either refused to support the research or dropped out after temporary involvement. Ultimately, De Felice found a sponsor in the person of Dr. Claudio Cavazza, the young and dynamic president of the Italian drug firm, Sigma-Tau. It took all of one hour for Cavazza to see the scientific and commercial promise in carnitine. Without delay, a new U.S. company was formed to pursue marketing here, while Sigma-Tau proceeded with European sales.

The paradox is that carnitine could conceivably turn out to be one of the most important drugs of recent times. Not only is there a lot of heart disease in this world, but the drug has possibilities for everything from muscular dystrophy and cancer chemotherapy to intravenous feeding. Hardly a month goes by without a new scientific communication about this interesting material. And, best of all, it is remarkably nontoxic.

By now De Felice has spent $60,000 of his own money on carnitine —perhaps not much as medicinal drug development costs go, but enough to discourage most solo entrepreneurs. It would be a lovely twist of fate if he were to reap handsome financial rewards from a drug rejected by 32 U.S. and international companies. The rejections were, to be sure, mostly understandable. Until now, carnitine has been a victim of its natural origins, which make it unpatentable, and its unorthodox and varied effects, which mean that there is no precedent for it to enjoy smooth sailing at the FDA. . . .

There are . . . different reasons for the existence of drug orphans. One is the estimated size of the potential market. No matter how low the cost of development, it is difficult for a company to justify committing funds to a product that will never make any money or even cover its costs. And of course development costs are rarely low. Indeed these costs, which have risen dramatically in the wake of the 1962 Amendments to the Food, Drug, and Cosmetic Act, have become a major deterrent to the development of all drugs, but especially the orphans. In the pre-1962 days, drug companies could provide "prestige" or "public service" drugs without making an excessive corporate investment. Today, it takes them, on average, $54 million and eight years of clinical work to bring a new drug to the U.S. market, even leaving aside the legal liability risks for the toxic effects that all drugs can produce. . . .

Behind the excessive costs are the ever-increasing demands of the FDA's Bureau of Drugs. It is not too strong to say that the FDA never does anything that actually cuts the costs of drug development. Rather, each new regulatory fiat ups the ante.

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Also, as noted, some orphan drugs are not patentable as drugs. The subsequent lack of exclusivity (or the fear of that lack) is a powerful deterrent to development, "use" patents being less attractive to firms than patents for chemical entities, and less enforceable. . . . Some disgruntled scientists have begun to refer cynically to the "NIH syndrome" —meaning not the National Institutes of Health, but "not invented here." If a company's scientists did not develop a particular idea or seek out a particular product on their own, it is not worth considering.

Officialdom and the Artisans

France's creative artisans are an endangered species, reports Ray Alan in *The New Leader* (January 14, 1980):

> Artisans say that, except for those who are already well up the ladder, practicing a craft in France today is a frustrating struggle against an Administration that views with mistrust anyone who aspires to creativity and independence. They explain that they are being trounced by two deadly bureaucratic weapons: VAT and "social charges."
>
> VAT is a value-added tax (*TVA* in French) on goods and services that is now imposed in all states of the [European Economic] Community. The French rate, the highest in the EEC, is 33 percent on "luxury" goods and 17.6 percent on other articles. Since manufacturers have to pay the tax, too, technically it does not discriminate against artisans. But it obliges them to devote precious hours to form-filling and haggling with tax officials, and it imposes financial strain and worry because their VAT quota—which they must pay in advance —is fixed according to a theoretical turnover guesstimated by officials and adjusted every two years. As inventive Pyreneean artisans told me: "We don't know what our turnover will be, or for that matter what we'll be making, in six or ten months' time. Every artist needs periodically to spend weeks or months experimenting with ideas and techniques. But try explaining that to a French tax inspector!"
>
> Even more burdensome than VAT are the "social charges" an artisan has to pay various official and semi-official bodies every three months, from the moment he starts work, regardless of whether he is earning anything. In theory, the money goes to various welfare and pension funds; in fact, much—perhaps most—of it is swallowed up in inflated administrative costs. As with VAT, the payments are based on official guesstimates of turnover, but three sets of bureaucrats are now lying in wait.
>
> Every artisan must belong to three organizations, called *caisses*—one for pensions, one for health insurance and one for family allowances. Each has its own network of offices and bureaucrats, and there are several *caisses* within a category, all serving identical functions. Inevitably, this grotesque bureaucratic proliferation wastes resources and makes social services a heavier economic burden in France than they are in countries like Britain, where health and welfare services are financed largely from general taxation. . . .

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Two-thirds of young artisans abandon within two years. Too many older artisans, caught on the financial-administrative treadmill, settle for routine repetitive work that taxmen can assess easily. Artisans' wives hoot and cry "*Jamais!*" when asked if they would like their children to be artisans. One man of about 50, whose lovingly handsome furniture attracts buyers from hundreds of miles away, said he and his wife had dissuaded their two sons from following in his footsteps. Where, then, were they working? [The artisan] smiled sadly. "They've got secure, respectable jobs—in the Administration. Like that, they'll be on the winning side."

But officials in the People's Republic of China are encouraging initiative and innovation in citizens' cooperative ventures, according to a report by Michael Young (*New Society*, November 1, 1979). Independent enough to accommodate the entrepreneurial spirit, these co-ops are able to function as a kind of group capitalism, as one successful example shows:

Yang Fen Yun is the manager of the Chuji Garage Cooperative in Kunming, a city with a population of 1,800,000. It is the capital of Yunnan province, on the borders of Burma and Vietnam. At the age of 33, he and four friends saw an opportunity for a new producers' cooperative that would offer a better service than state-owned garages. The number of trucks and Chinese jeeps is rising steadily; there has been no corresponding increase in repair facilities.

The five young men had one great disadvantage. None of them had ever done a repair to a truck. But their plans were so well worked out that they persuaded the production bureau of the local authority to lend them an initial £3,000. This was added to the few pounds which was all they could afford to put up from their own savings.

They quickly acquired the right to use some commune land on the edge of the city and, doing the work themselves, they finished building their first workshops in January 1979. Yang is the general manager, and his four friends departmental managers, of a cooperative which by last week had 182 members working in it.

They had hardly opened their doors and found a few skilled workers and other trainees to join them before the business began to flood in. They were cheaper than state garages: They did not have to bear the costs for medical services and welfare, and they had a much slimmer management. They could carry out the complete overhaul and rebuilding of a truck for £1,150, against the state's £1,260. They were speedier, because people whose income depended upon how much money the whole coop could make were prepared to work into the night if necessary. They also did a better job—maybe partly because there is no law forbidding dismissal from co-ops, as there is from state enterprises.

Their reputation spread so fast by word of mouth among communes, state factories, and the police, and so much business was offered to them, that they had an almost immediate need for a further new building.

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The local authority staff recognized the market estimates had been more than borne out and lent them another £25,000. The whole loan will be repaid out of the first year's profits, which are expected to be £60,000. The employees will then own their own enterprise free from debt, and an expanding one at that, with a clutch-building shop and small machine shop majing spares that can no longer be bought for old trucks.

Getting Things Done in New York

About $530 million a year is spent to house families and individuals on welfare in New York City—approximately 40 percent of the $1.3 billion annually of federal, state, and city funds currently devoted to public assistance there. Despite the expenditure of this huge sum, no one is satisfied with the housing welfare clients obtain. Concern about this problem has led various individuals and groups to suggest that the leverage of this half billion dollars might be used to improve these unsatisfactory housing conditions.

At the same time, landlords are outspokenly aggrieved at their loss of income from non-payment of rent by welfare tenants and by cash-flow difficulties resulting from delayed payments. Many have alleged that this is an important factor contributing to the deterioration and abandonment of rental housing in some parts of the city.

An article in the October 1979 issue of *City Almanac* by Dr. Blanche Bernstein, former Administrator of the New York City Human Resources Administration (HRA), tells of a joint effort by HRA and the city's Department of Housing Preservation and Development (HPD) to improve housing for welfare clients. The proposal involved expanded use of the practice of restricting payment of welfare clients' rent by means of two-party checks (checks issued to the client *and* the landlord, requiring the endorsement of both parties but payable only to the latter), in exchange for landlords' agreement to maintain and improve their properties.

The article is a tale of failure. But it is not the HRA proposal that failed. That has not yet been put to the test. In order to be tried out as a demonstration project, the HRA proposal had to be approved by the New York State Department of Social Services (NYSDSS) and by the U.S. Department of Health, Education, and Welfare, and despite protracted efforts and negotiations, of more than a year's duration, that approval has not yet been forthcoming.

The elements of the proposal were as follows:

—Landlords in the demonstration area, which included two Community Planning Districts in the Bronx, would be encouraged to make agreements to undertake necessary repairs, to remove all rent-impairing violations and 80 percent of all other violations according to an agreed-upon schedule, and to maintain their buildings and provide basic services such as heat and hot water.

—In exchange for this agreement from the landlord, HRA would help to stabilize the landlord's income by identifying welfare tenants

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in the buildings and placing them on two-party rent checks—whether or not they had mismanaged their funds in the past.

—Welfare clients in the area would be informed of the demonstration and its purposes and advised that those paying their rent regularly had the right to "opt out" of the two-party check requirement, that is, to refuse to participate in the project.

—HPD and HRA would establish an office located in the demonstration area to 1) inspect project-enrolled buildings regularly to assure continued adequate maintenance, 2) monitor buildings that needed to be brought up to standards, and 3) investigate tenant complaints that landlords were not adhering to the agreements.

—If a landlord failed to adhere to the agreement, HRA would terminate the two-party check arrangement and assist the tenant to relocate.

—A research component would evaluate the results of the demonstration. (The demonstration was to be limited to buildings where welfare clients constituted 20 percent or more of the tenants—in other words, buildings in which the restriction of welfare clients' rent checks might be expected to have a significant effect on the landlords' cash flow.)

HRA needed the approval of HEW to implement this proposal. For it required suspension of the principle of unrestricted money grants—that welfare recipients may spend welfare money as they wish—which had existed since the original 1935 legislation that established the welfare system. The federal government has allowed some exceptions to this principle, but such exceptions have been made very reluctantly and always in the face of intense opposition, especially from welfare-rights advocates. Without HEW's approval, the ability to restrict rent payment by means of two-party check is limited in two ways: rent may be restricted only after it has been shown that the client has mismanaged funds; and no more than 20 percent of the Aid to Families with Dependent Children caseload may be placed on restricted rent payment at any one time. The HRA proposal would have violated both restrictions.

Since these limitations on the use of two-party checks were contained in the Social Security Act, a general waiver of these provisions could not be granted by executive decision at any level of government, but would have required legislative action. Section 1115 of the Social Security Act, however, permitted local agencies to request a waiver of relevant provisions of the law for the purpose of permitting a demonstration project, and it was on this basis that HRA requested approval for its proposal. Requesting the approval of HEW for this purpose also required that the proposal be approved by the New York State Department of Social Services, which would submit it to HEW (HRA could not submit it directly). Further, as a result of a court-induced agreement entered into by HEW in 1972 in connection with a New York State proposal for a demonstration project relating to public-service employment of welfare recipients, the New York City-based Center on Social Welfare

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Policy and Law, as the surrogate for the defunct National Welfare Rights Organization, would have 30 days to review and comment on the proposal.

During the summer of 1978, the HRA proposal was circulated in draft form among individuals representing a wide variety of groups and interests in the city, and at a number of points during this and the subsequent period the proposal was modified to take account of criticisms which it had elicited. For example, some major modifications were made to require a *signed* agreement from the landlord to maintain and/or upgrade buildings; to notify welfare tenants in project buildings *prior* to their being placed on two-party checks; and to require HPD to schedule inspections every six months with additional inspections triggered by tenant complaints.

The HRA proposal met with vociferous opposition from some and equally fervent support from others. Organizations interested in the condition of housing and civic groups with concern for the overall well-being of the city, as well as real estate groups, supported implementation of the plan; welfare advocates and social welfare organizations led the opposition.

In fact it sometimes appears that almost every general complaint about social and housing conditions, and every dissatisfaction with governmental policies for dealing with these issues, was likely to be cited as a reason for opposing this particular proposal. For example, Dr. Bernstein quotes the following from a letter to Commissioner Blum from the Community Service Society:

> Any program which hopes to succeed cannot fail to recognize the inadequacy of public assistance grants, the inability of the City to enforce its own housing code at the present time, the positive effects that tenant organizations can have on preserving housing when landlords fail to do so, the deleterious effects of bank disinvestment, and the fact that some governmental policies themselves play a significant role in neighborhood deterioration.

In October 1978, HRA discovered that its proposal could not be submitted to HEW without first being passed in review by the Institutional Review Board of the New York State Department of Social Services. That performance is especially interesting in light of Ithiel de Sola Pool's article in this issue. As readers of that article will recall, the official purpose of the Institutional Review Board is to determine whether or not proposed research on human subjects would expose those subjects to "undue risks." After lengthy consideration, the Institutional Review Board concluded that it lacked jurisdiction in this case, for the reason that the use of restricted payment by two-party checks is an accepted practice, sanctioned by federal and state law and regulations, and therefore could not be construed as placing the recipients "at risk." Notwithstanding this conclusion, the review board went far beyond its mandate and expressed serious reservations about the current policy of using two-party checks.

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Consideration of the HRA proposal at the state and federal levels went on for an entire year, from September 1978 to September 1979. During this time, numerous modifications and amendments were requested by the Department of Social Services or HEW, some of which were resisted by HRA on the ground that they would substantially add to the expense or difficulty of implementing the project. In the end, however, HRA appears to have conceded all points, including the demand that the research and evaluation component of the project be bolstered by the inclusion of a control group (instead of relying on "before and after" evaluation of the subject group, as HRA preferred). HRA also agreed to increase the frequency of regular inspections of enrolled buildings from once every six months to once every three months. By early August, 1979, HRA officials were led to understand that a letter granting the necessary waiver was ready for HEW Secretary Califano's approval. Before he signed it, however, President Carter announced several cabinet changes—including the replacement of Califano by Patricia Harris:

> Califano's staff assigned to work with Secretary-Designate Harris's staff on the transition, in accordance with Califano's general instructions, decided that, in view of the controversy that had surrounded the proposal, he should not approve the project without offering Secretary-Designate Harris the choice of considering the matter. Her staff requested that it be left for her decision. After she officially took over, Mayor Koch lost no time in writing to Secretary Harris urging that she approve the proposal.

Nor did the opponents of the proposal lose time in restating their opposition. On September 5, 1979, the state Department of Social Services was advised by HEW as follows:

> After many hours of study, Secretary Harris has decided not to approve the project on the basis of a number of serious concerns. In general, the research design of the proposal would make it impossible for the demonstration to meet its stated goals. For example, the hypothesis of the project could neither be verified nor denied because of the lack of a control group of nonwelfare tenants, the probability that landlords who voluntarily participate would not be a representative group, and the difficulty of distinguishing the effects of the two-party check mechanism from the effects of other initiatives (such as more frequent inspection).
>
> Beyond research design questions, it seems unlikely that the two-party rent check approach would represent either an efficient income maintenance system for AFDC recipients or a significant improvement for landlords. At the same time the Secretary recognizes that the goals of the proposed demonstration are worthy. HEW and HUD staff are willing to work cooperatively with your department to develop alternative approaches to achieve these goals in a mutually agreeable fashion.

Dr. Bernstein describes her reaction to the HEW decision:

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I am not privy to Mayor Koch's language when this communication was brought to his attention. In my own language, I must say that I find the letter of denial incredible. It is the first time the idea of a control group of *nonwelfare* tenants was brought up. Further, I am not sure what a representative group of landlords would be, but I assume that it would have to include those "bad," "not to be trusted" landlords who are milking the buildings they temporarily own and who haven't any intention of providing required services to tenants. But all of us always knew these landlords would not want to join the project and that we would not have wanted them. We did want to work with the many landlords who are struggling to retain their properties but cannot do so without an adequate cash flow and reasonable profitability. As to the problem of distinguishing between the effects of the two-party check and more frequent inspections, this *is* really Catch 22. First NYSDSS and HEW said we had to provide for more frequent inspections to ensure that landlords were living up to their agreements to justify putting clients on restricted checks. Then HEW said it would not be able to distinguish the effect of one from the other.

It is possible, of course, that HEW and the opponents of the HRA proposal were right, that the program wouldn't have worked. Then again, it might have proved to be an effective approach to achieving some improvement in housing for welfare clients. Without putting such a proposal to some sort of test, how is one ever to know?

The Book of Jobs

The *Dictionary of Occupational Titles*, among Washington's "most amazing bureaucratic creations," was scrutinized by Spencie Love in *The Washington Post Magazine* (December 16, 1979):

Commonly known as the D.O.T. in the Labor Department's division of occupational analysis where it was created, the work is a five-and-a-quarter-pound, 1,371-page, bright red paperback that lists and describes every job in the U.S. economy. It has been around for some 40 years and for at least 30 years has been used daily in local offices of the U.S. Employment Service all across the country.

William B. Lewis, administrator of the U.S. Employment Service, boasts in the foreword that this book offers "the most comprehensive, up-to-date occupational information on job duties and requirements ever assembled in a single volume."

Another Labor Department spokesman has referred to the D.O.T. as the "Bible for personnel officers."

But an occupational analyst who worked on the D.O.T. expressed a different view: "No one else has attempted anything so ridiculous."

A characteristic entry in the D.O.T. reads: "534.685.010 Friction-Paint-Machine Tender (match). Tends equipment that applies and dries strip of friction paint (striking material) on cards of matchbook covers. . . ."The numbers at the beginning of the entry form a complex code by which jobs and job seekers are matched.

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Say, for example, a job seeker steps into a federal employment service office in Palooka, Tex., or Roaring Stream, Ark. An interviewer asks about past experience and then chooses a job title and a code number that serves as the closest fit. Next, job orders with similar numbers are pulled from a file or a computer as possible matches. If no job orders with similar numbers are available, other job orders are pulled. Whether the applicant gets a job or not, the system works beautifully from the point of view of the Employment Service: The applicant has been properly coded and turned into one of the Department of Labor's annual statistics.

What may not work, however—at least from the point of view of the job seeker—is the dictionary's deadly serious literalness and comprehensiveness. There are more than 100 varieties of sewing-machine operator jobs. "Lawyer" is flanked by "lawn-sprinkler installer" and "layaway clerk." And there are job definitions for an "egg-breaker" and a "bedspread-folder": one who "strikes eggs against bar, allows contents to fall into bowl, and throws empty shells into receptacle" and the other who "folds fabric into halves, aligns edges, and matches pattern of fabric."

Even Santa Claus and the Easter Bunny aren't left out, though they are revealed as impostors: "Wears character costumes and impersonates characters portrayed to amuse children and adults. . . ."

And the difficulty in understanding the subtleties of the D.O.T. increase when "worker function ratings" are considered. Although all jobs, both humble and high-powered, are listed in an impersonal numerical order, broken down only by industry groupings, the middle three digits of the nine-digit code—the "worker function rating"—rank the job according to "the worker's relationship to data, people, and things" (in that order). The lower the number, the "more complex responsibility" involved in the job.

For example, the 0 in the "data" hierarchy stands for "synthesizing" while 6 stands for mere "comparing." At the top of the "people" category at 0 is "mentoring," in contrast to 8 which represents the lowly function of "taking instructions, helping." Under "things," 0 is the number for "setting up," supposedly more complex than "handling," number 7.

The D.O.T. represents "poultry veterinarian" and "dentist" as two of the highest callings, along with almost all M.D. jobs. Both are rated 101. Does a veterinarian "mentor" chickens? Meanwhile, a "child psychologist" is rated at 061 (6 for "speaking, signaling"). So much for Erik Erikson and Anna Freud.

Nurturing, caring, responsiveness, and sensitivity do not count for much. The dictionary rates a "gift wrapper" (364), a "human projectile" (347), a "fan mail clerk" (262), a "strip-tease dancer" (047), and a "canary breeder" (161) higher than a "home housekeeper" (474), the closest definition to a regular housewife.

An "occupational analyst" is rated with the same code as the "poet" and the "prose writer, fiction and nonfiction" (067), and "chick sexer," "Irish moss gatherer" and "laboratory assistant" are considered equally

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rock-bottom at 687. But some fine distinctions remain. The D.O.T. rates a "chili cook" (134) higher than a "Chinese-style food cook" (361) or an "Italian-style food cook" (361). . . .

It was during preparation of the third edition, not published until 1965, that an attempt was made to rate the complexity of various jobs. The worker function ratings are largely the product of Dr. Sidney A. Fine, who has since left the government to become a "humanistic free-lance consultant" (a title not listed in the D.O.T.). The big book, Fine now says, has become a "giant frozen in ice." Fine has learned, he says, that "people and jobs are dynamic."

But Fine's hierarchies survived into the fourth edition in 1977. This edition required twelve additional years of research, 75,000 additional on-site interviews, and the combined labors of some 135 analysts and clerks working for a period of roughly 24,000 hours. Neither the division chief nor any of the analysts dared to estimate the total cost.

A ballpark estimate, based on the 1979 funding for the Washington-based division of occupational analysis, its 10 field centers around the country, and its one special projects center would put the cost of the present edition at $36 million. Fine said he imagined the Encyclopaedia Britannica cost less to produce. . . .

In the meantime, the fifth edition of the D.O.T. is on the way. Chief of the Division of Occupational Analysis, Beatrice O'Bryant, says that she just has "a hunch" there will be another D.O.T. soon. "People have been asking if it could come out in 1984."

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SPRING BOOKS

A Special Supplement

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The Court as Best Seller

ROBERT H. BORK

***Bob Woodward and Scott Armstrong*: The Brethren.** *Simon and Schuster. 444 pp. $13.95.*

BOB WOODWARD describes *The Brethren,* the "insider's view" of the Supreme Court he wrote with Scott Armstrong, as a book that "could even be called 'The Making of the Law, 1969 to 1976.'" "People have a sense that the Court's important—it's remote, obscure, and the average person can't fathom the language. And here are journalists saying, 'Here's how it works and what it means.'" The book, in truth, does none of those things. Those who take it seriously will be misinformed about how the law is made, how the Court works, and—most especially—about what any of it means. Abe Burroughs, attending the premiere of "The Hucksters," Hollywood's "inside" version of Madison Avenue, remarked, "It's a devastating exposé—of the movie industry." So it is with *The Brethren.* It backfires. The book adds little to our knowledge of the Court, but it raises disturbing questions about the practice of "investigative journalism."

Covering the first seven years of Warren Burger's tenure as Chief Justice, the authors offer what purports to be an intimate view both of personal relationships within the Court and of decisions involving such controversial topics as school busing, abortion, obscenity, and the death penalty. Some Justices and a great many clerks were persuaded not only to talk but to surrender diaries, internal memoranda, and draft opinions. The result should have been a spectacular illumination of the Court's decisional processes and its philosophic divisions. There might have been a good deal to be said for that, despite the costs in broken faith. The public badly needs increased understanding of the Court as well as valid criteria by which to judge it. Unhappily, the upshot of all this journalistic enterprise is gossipy, misleading, somewhat malicious, and thoroughly disappointing. Nobody who cooperated in making it possible has anything to be proud of, and more than a few, one guesses, must have very deep personal regrets.

The book is less about law than it is about personalities, and even the personalities are inadequately rendered. No rounded picture or assessment of any Justice emerges. We learn in detail both tedious and depressing that some of the Justices think poorly of others, and that upon occasion they express disdain in crude—never colorful or witty—language and gesture. That such feelings exist is not to be doubted. They are inevitable when men of radically different temperament and philosophy, who cannot even agree upon the purpose of their joint undertaking, are condemned to strive together in claustrophobic isolation upon tasks that even under better circumstances would be arduous and divisive. The atmosphere may be gen-

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erally plausible, but the depictions of individuals are less to be trusted. The sources are wholly unidentified (the authors say they must be), and obviously biased—usually speaking from a leftist perspective. Since only some talked, the information is both incomplete and partisan. No doubt many who chose to respect their institutional obligations would have offered wholly different perspectives.

Though most Justices come in for unflattering characterization sooner or later, the individual most persistently attacked is Warren Burger. He is portrayed—apparently by persons not in political sympathy—as petty, manipulative, and of limited ability. For what it may be worth—since the Chief Justice, to his credit, did not choose to tell Woodward and Armstrong his side of the story—many persons who deal with him find him courteous and knowledgeable. Furthermore, a study of the Court's work suggests not only that his opinions withstand comparison but also that he, as much as any Justice and more than many within memory, respects what Felix Frankfurter called "one of the greatest duties of a judge," the refusal to extend the Court's power beyond its legitimate bounds. Of these considerable judicial virtues, not a glimmer appears in *The Brethren*.

As for the rest of the Court, they are revealed as the authors trudge from case to case, narrating the conferences and maneuverings for votes, relating vanities and insecurities, retailing anecdotes and unkind assessments. But unless the reader is the sort who thinks Rona Barrett's "news" is important, these stretches of the book are boring. There are moments of relief—the story of how a major baseball antitrust case was put together is genuinely funny—but they are too few. Generally, we get the sort of gossip that is out of date in a week. Even professional Court-watchers don't care about it now, and general readers, if they buy the book on the strength of Woodward's reputation, are unlikely to finish it.

Most frustrating, however, is the undeniable fact that glimpses recur of what might have been an important book. Material relevant to questions about the Court's performance of its assigned constitutional function does crop out of the detritus, but the questions remain unaddressed. It is difficult, probably impossible, to reconcile the Court's behavior over most of the past two decades with any legitimate view of the judicial function in a constitutional democracy. In passing—and apparently without realizing the point's significance—Woodward and Armstrong represent the Justices as thinking of their institution that its "strength derived from the public belief that the Court was trustworthy, a nonpolitical deliberative body." But scattered unnoticed throughout this book is evidence that much of the Court is highly political, and hence, on the standard suggested, not to be trusted. Throughout the book, but without comment, we are told, for example, of judges devoted to the advancement of controversial political ideals rather than to the legal order, judges eager to read the Equal Rights Amendment into

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the existing Constitution before the states ratify it (and just in case they don't), judges determined to limit or abolish the death penalty because they don't like it, despite the fact that it has been enacted democratically and was accepted as legitimate by the Constitution's framers. The authors neither describe the legal terrain over which these battles are fought—so that readers could form some nonpolitical judgment of the merits—nor do they ever stop to ask what is a Justice's constitutional duty in approaching such issues.

The discussion of *Roe v. Wade*, the 1973 decision which wrote a constitutional code to which state abortion laws must conform, illustrates the problem. The judicial issue in *Roe v. Wade*, one is forced to insist, was not one's attitude toward the vexed topic of abortion but whether the Court was the institution to address it—whether the Constitution, honestly construed, has anything at all to say on the subject. Woodward and Armstrong give the reader no information that would enable him to form a reasoned opinion on that question. Instead, they purport to summarize the attitudes of some of the Justices—attitudes that have nothing to do with consitutional law and everything to do with personal predilections.

We are told that Justice Douglas thought laws strictly limiting abortions were "infringements of a woman's personal liberty. The broad constitutional guarantee of 'liberty', he felt, included the right of a woman to control her body." Justice Stewart is represented as thinking that although abortion was an emotional and political issue the Court was unlikely to handle well, yet "it was becoming too important to ignore. . . . Women were coming into their [own]. . . . [A]bortion was becoming one reasonable solution to population control. Poor people, in particular, were consistently victims of archaic and artificially complicated laws. The public was ready for abortion reform. . . . [T]he state legislatures were always so far behind. . . . [T]his was perhaps an instance where [the Court] had to be involved." Justice Blackmun, who ultimately wrote the majority opinion, and who is said to admire doctors very much, saw abortion laws as "a needless infringement of the discretion of the medical profession. . . . The case was not so much a legal task as an opportunity for the Court to ratify the best possible medical opinion." And of Justice Powell the authors write: "If there was no way to find an answer in the Constitution, Powell felt he would just have to vote his 'gut'. . . . The abortion laws, Powell confided, were 'atrocious'. His would be a strong and unshakable vote to strike them. He needed only a rationale for his vote." That "rationale," the authors say, was provided by a lower court's bare assertion that abortion was a matter for personal judgment, not law.

Woodward and Armstrong not only do not discuss the propriety of such motivations and such a decisional process in a court of constitutional jurisprudence, they do not even suggest that a serious problem is raised by what they report. The reader is given no hint that the principles enunciated are hopelessly sweeping and anchored in no constitutional sources; he is given no hint that quasi-

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philosophical speculations are, to say the least, of dubious relevance to the Court's function. Does everybody have a constitutional right to control his or her own body under all circumstances? Who is it that the state legislatures are impermissibly behind? Why may law not interfere with the discretion of doctors? When the Constitution is silent is it the judge's duty to abstain or to vote his "gut"? It is disheartening to realize that a book intended to explain the Court to the general reader not only avoids all of the crucial questions but even scants the dissents of Justices White and Rehnquist in which the crucial issue of judicial authority is debated.

We learn much later in the book that Justice Blackmun, under heavy attack for the decision, defended himself by claiming that "the Court functions only on constitutional principles. All we were deciding was a constitutional issue, not a philosophical one. . . ." Almost 200 pages earlier we were told that the clerks did not see it that way, and were "surprised to see the Justices, particularly Blackmun, so openly brokering their decision like a group of legislators. . . . There was something embarrassing and dishonest about this whole process. . . . The Court was going to make a medical policy and force it on the states. As a practical matter, it was not a bad solution. As a constitutional matter, it was absurd." The contradiction between Blackmun's claim and the clerks' perception (and the book's reporting supports the clerks) goes to the crux of the modern debate about the Court and the legitimacy of its power. The reader deserves at least to have it called explicitly to his attention and assessed. Instead, he must make what he can of snippets of evidence scattered throughout hundreds of pages. Unless the reader is already knowledgeable—and the book is addressed to the unknowledgeable—such superficial reporting is likely to leave him thinking that the Court is properly a legislature, or that musings about population control come out of the Constitution in some mystical way. Though the book's object is to inform, its accomplishment, one fears, is to mislead.

That is a heavy cost. There are others, including the likelihood of damage to the Court itself. The level of collegiality and candor among the Justices—apparently not high to begin with—can only be further eroded by the lesson that anything at all may be made public. Nor can working relationships with clerks be improved by the realization that numbers of them, to say nothing of their lack of personal honor, display legal ethics that warrant suspension of their licenses to practice.

Woodward and Armstrong are well within their First Amendment rights in doing what they have, but the results ought to make them —and us—wonder about the professional obligations of journalists. There is a morally obtuse and professionally convenient assumption that, regardless of damage to legitimate social interests, it takes no more to serve the public and discharge one's professional responsibilities than to print whatever is held confidential. The lawyer's equivalent of that moral abdication is the belief that any tactic is

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justified in the service of a client. Neither assumption will stand scrutiny, and it is not a sufficient defense of either that its abandonment would require professionals to make hard choices.

But the problems raised by this book lie deeper. Journalism has a difficult time with law. A medium oriented to quick and transient titillations is ill-equipped to deal with complex ideas about the social order and governance. Most reporting of the Supreme Court attempts to simplify and personalize, and ends inevitably by vulgarizing and misrepresenting. The authors demonstrate that investigative journalism—which one of them by uncovering official wrongdoing has proved capable of public service—is as yet incapable of dealing with an institution that acts and must be judged in the realm of ideas. In this area, to confine reporting to mechanics and personalities is to miss—and hence to misrepresent—the essence.

The ultimate morality of a craft must lie in a fit between the task and the tools brought to it. Just as the woodworker who approaches a Chippendale with ripsaw and cold chisel may be said to fail the morality of his calling, so does the journalist who comes to the Supreme Court without the ability and determination to make comprehensible ideas about law and the Court's proper role. Writers who do not do that cannot be taken very seriously when they claim to have told us "how it works and what it means." The measure of the failure of this "inside" view lies in the fact that a better understanding of how the Court works and what it means may be found in the published opinions the Court itself offers for our scrutiny.

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The American Energy Debate

ROBERT S. PINDYCK

***Robert Stobaugh and Daniel Yergin, ed.*: Energy Future: Report of the Energy Project at the Harvard Business School.** *Random House. 265 pp. $12.95.*

***Ford Foundation Study Group Report*: Energy: The Next Twenty Years.** *Ballinger. 584 pp. $25.00 cloth; $9.95 paper.*

There have been few domestic policy debates in the United States as divisive and as seemingly unresolvable as the one over energy policy. This debate began in earnest even before the OPEC oil price increase of 1973-74, focusing initially on the regulation of natural-gas wellhead prices as spot shortages of gas began occurring in 1971 and 1972. Then, as now, the argument was a simple one: Do we let the domestic price of energy rise so that our grow-

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ing dependence on imported oil can be stemmed and spot shortages of fuels can be averted, or do we keep the price of energy low and try to reduce or limit imports with a patchwork of programs to subsidize synthetic fuels, promote conservation through tax incentives and exhortation, and, when shortages do occur, ration supplies?

Throughout the 1970's, American energy policy has favored the low-price option. Price controls on natural gas remained in effect despite growing shortages of that fuel. In 1974 we saw the introduction of the price-controls-entitlements system for crude oil, which in effect taxes the domestic production of oil (by requiring refiners of domestic oil to purchase "entitlements") and subsidizes OPEC imports (by granting "entitlements" to the refining of imported oil). And price controls have remained in force for gasoline, with small national shortages exacerbated by the "regional allocation" system—first that imposed by the Federal Energy Administration in the winter of 1974, and then that of the Department of Energy in the summer of 1979.

The United States is now slowly but hesitantly beginning to turn away from its low-price policies. The Natural Gas Policy Act of 1978, although extending regulation to intrastate gas and creating a bureaucratic nightmare by separately regulating some twenty-odd categories of gas, at least moves us toward the eventual deregulation of most categories of gas by the middle or late 1980's. And the price-controls-entitlements system for crude oil is scheduled for demise by October of 1981.

Nonetheless, the strong disagreement over energy prices remains, and the future of American energy policy is far from clear. This should not come as any surprise, for it is quite simply a result of the fundamental conflict that exists between the *economics* of energy and the *politics* of energy. The *economic* prescription for energy policy, with its goal of providing sufficient supplies at lowest possible costs, both today and in the future, clearly relies on the price mechanism—so that producers have the incentive to provide increased supplies of (both conventional and nonconventional) fuels, and consumers have the incentive to restrict consumption. The *political* prescription for energy policy, on the other hand, with its varied and sometimes conflicting goals, tries to keep the price of energy low so that the true cost of energy is hidden. Consumers pay for their energy *indirectly*, through tax revenues allocated to synthetic-fuel production or conservation subsidies, increased general inflation generated in part through growing OPEC imports, and sometimes outright shortages of fuels.

The issue, then, is *not* whether the U.S. should "go solar" or "go synfuels" over the coming decade or two. The issue is whether we will pay for our energy *directly* or *indirectly*. In the first case consumers would have a real incentive to conserve, and *economics* would determine the fuel mix of the future, thereby minimizing its long-run cost. In the second case consumers would pay for energy

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in part through taxes and inflation—thus largely eliminating the conservation incentive—with *politics* determining the country's future fuel mix.

UNFORTUNATELY this issue is lost entirely in the best-selling of the recent books on energy, the Harvard Business School study, *Energy Future*. By promoting a particular fuel mix (solar energy and conservation, both broadly defined) and ignoring economics entirely, this book may do a great disservice to the public's understanding of what America's energy problem is all about.

Energy Future is actually a collection of essays by different authors. The first, by Robert Stobaugh, is a well-written and accurate description of the history and current status of the world oil market. This contribution explains clearly just how unstable are the sources of our imported oil, and dispels the myth (still believed by many in Washington) that OPEC will provide secure and sufficient supplies of oil at reasonable prices if the United States will only accommodate the political demands of the oil-producing countries. As Stobaugh explains—and as President Carter stated in his televised energy address on July 15, 1979—the United States has become intolerably dependent on insecure supplies of imported oil. Clearly this dependence must be reduced, but again the issue is *how*. The analyses and prescriptions offered in the remaining essays of the *Energy Future* (and by President Carter on July 15) simply miss the boat.

What *Energy Future* and President Carter tell us is that we should commit ourselves now to a particular fuel mix for the future, and then have the government finance that fuel mix. The book and the President are wrong on both counts.

The book and the President differ in their desired fuel mix (the President wants synthetic fuels), but that is not important. Our future fuel mix should be determined by the energy sources and technologies that prove themselves to be most economical, and what that most economical mix will turn out to be cannot be determined now. On the other hand, any fuel mix that is artificially imposed—whether it consists of solar energy, "conservation," or synthetic fuels—can only increase the long-run cost of energy. Our future fuel mix should be financed by energy consumers, not by the government. To do otherwise would artificially boost our energy consumption—and our energy bill.

Energy Future argues its case by making assertions that are almost never backed up with engineering or cost data, or any hard economic analysis. As a result, the book tends to create or reinforce a number of myths about energy in the United States. Some of these myths may turn out to have pernicious effects on U.S. energy policy, and three in particular deserve attention here.

The first myth states that *"there is little or no more oil or gas to be found in the United States."* This "conclusion" of *Energy Future* has unfortunately become more or less accepted wisdom these days.

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The fact is that *we simply don't know* what the potential is for further oil and gas discoveries in this country (and in other areas of the world, such as Latin America), particularly in the face of rising prices. The statistical, geological, and econometric evidence on this matter is mixed; more important, it indicates that there is considerable uncertainty over supplies of oil and gas that would be forthcoming with higher prices. There have been recent indications, however, that those supplies may be significant, and from sources that would not have been predicted five years ago. For example, it now appears that there are vast reservoirs of natural gas that lie around 20,000 feet below the surface of the earth, and that could be produced economically at prices of about $3.50 per 1,000 cubic feet. (We are now importing Algerian liquefied natural gas at prices close to $5.00 per thousand cubic feet.)

The second myth is that *"solar energy would be cheap if only the government would get behind it." Energy Future* contends that a lack of federal support and federal incentives is the reason that solar energy is now several times more expensive than conventional energy supplies, and claims that the cost of solar-generated power would fall precipitously after a solar industry got going. But the book fails to provide even a single supporting reference to back up this claim with hard numbers. The fact is that recent engineering and economic analyses do not support this view at all. Solar technologies are reasonably well understood, and while some economies of scale exist, they would not be anywhere near sufficient to reduce the cost by the factor of five or ten needed to achieve economic viability. We have seen where overly optimistic projections about the cost of nuclear power have gotten us. Now is not the time to be fooled by overly optimistic projections of the cost of solar energy. (This is not to say that solar's day will not come, but only that it will have to wait until the cost of energy rises considerably above current levels.)

The third myth is that *"the United States has considerable leverage over the world price of oil." Energy Future* argues that a 1 million barrels-per-day (bbls./day) reduction in U.S. oil imports would cause non-OPEC oil producing countries to raise their production by another million bbls./day (for some unexplained reason), and, further, would cause OPEC to lower its price by at least one dollar per barrel. The corollary to this argument is that every barrel of imported oil saved represents a savings of between $40 and $100, so that extremely large subsidies are warranted for nonconventional energy supplies or for conservation. Unfortunately, the United States has nowhere near that kind of power over OPEC. Several studies of OPEC pricing (including one done for the Department of Energy) indicate that a 1 million bbls./day reduction in U.S. imports would shave OPEC prices by at most 10 or 20 cents. This is not to say that a reduction in our oil imports is not desirable—in fact, it is imperative—but that we should not count on it to reduce the world price of oil.

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WHILE many of its arguments are flawed, *Energy Future* is well-written and easy to read, and this has no doubt contributed to its popularity. However, return is often commensurate with investment, and the reader with a more serious interest in energy would be well advised to read another of the books that have appeared recently. The Ford Foundation Study Group Report, *Energy: The Next Twenty Years,* clearly stands out as one of the best on this subject.

This book recognizes the conflict involved in energy policy, and sets forth the economic "facts of life" clearly, precisely, and thoroughly. One of the first chapters, for example, on energy demand, summarizes the recent statistical evidence on demand elasticities, and makes a convincing and well documented argument that energy demand is indeed highly responsive to price, so that the price mechanism *will* work as an effective tool for conservation. This is extremely important. Unless we recognize the effectiveness and importance of price as a policy tool, we are kidding ourselves about the realities of our energy problems.

One economic "fact of life" in particular forms the organizing focus for *Energy: The Next Twenty Years.* As aptly stated by McGeorge Bundy in his Forward to the book, "The central message . . . is that energy—expensive today—is likely to be more expensive tomorrow and that society as a whole will gain from a resolute effort to make the price that the user pays for energy, and for saving energy, reflect its true value."

This is a large book that cannot be read in a single evening, but is well worth reading and indeed should be read by anyone—a concerned citizen or a Secretary of Energy—who wishes to gain a serious understanding of our energy problems and the policies that will solve them. The book explains, in just enough detail, how national and international energy markets function, the determinants and price responsiveness of energy supply and demand, the operation and effects of past, current, and proposed future government regulations, the technological and economic constraints affecting nuclear power and solar power, and the environmental choices and trade-offs that impinge on energy policy.

Unlike *Energy Future,* this book provides no easy panacea (such as "cheap" solar energy) for our energy ills. Instead, it helps the reader understand why there *cannot* be an easy answer, why ultimately consumers will simply have to pay more for the energy they consume, and why energy can be produced and allocated most efficiently through the use of market forces.

Energy: The Next Twenty Years also favors conservation, and explains clearly why and how "conservation will inevitably become one of the most important energy 'sources.'" But at the same time the book shows why "with a few notable exceptions [conservation] cannot realistically be mandated or managed centrally, but requires that information and incentives be provided to energy users who make their own adjustments." It then explains (again, in sufficient

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detail) how government incentives can be designed and utilized to overcome problems of market imperfections.

The book also examines the national and international politics of energy, and demonstrates why it is urgent for the United States to develop "ready contingency programs for a sudden interruption in oil imports, because such a cutoff is certain to happen somewhere, sometime, and with potentially disastrous consequences." And the book concludes with a sensible discussion of the role of science and technology in energy policy, and explains the desirability of using "government research and development policies to define and to develop a wide range of information and options, but not to push premature adoption of one or another technology."

As President Carter said during his televised energy address on July 15, "the people are looking for *honest* answers, not *easy* answers." Sadly, but not surprisingly, easy answers abound. Fortunately, however, honest answers can be found in *Energy: The Next Twenty Years.*

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Speaking Intelligently About Policy Analysis

WILLIAM KRISTOL

***Aaron Wildavsky*: Speaking Truth to Power: The Art and Craft of Policy Analysis.** *Little, Brown and Company. 431 pp. $13.95.*

All sensible people disdain "policy analysis" some of the time, and some intelligent people disdain policy analysis all of the time. Members of the latter group would be forced to reconsider their prejudice if they could be persuaded to read Aaron Wildavsky's fine book on "The Art and Craft of Policy Analysis."

The art and craft of policy analysis is to be understood by contrast with the alleged science of policy analysis, and Wildavsky's book stands in contrast with much of the work in the field. A very respectable recent *Primer for Policy Analysis,* for example, announces that "the approach to policy analysis throughout this *Primer* is that of the rational decision maker who lays out goals and uses logical processes to explore the best way to reach those goals." This approach leads to an emphasis on the construction of "models," though it also requires the warning that "many of the policy decisions you will encounter will not fit neatly and automatically into the models presented here, for the real world is rich and complex." Wildavsky's book, by contrast, is itself rich and complex; and while the authors of the *Primer* acknowledge the need for "judgment and

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sophistication" in applying the tools they teach, Wildavsky actually demonstrates judgment and sophistication in his consideration of public policy. He is able to do so, above all, because he understands, unlike most policy analysts, that practical knowledge is not applied theoretical knowledge, but is to a considerable degree different in kind from theoretical knowledge—which certainly is not to say that practical knowledge is not susceptible to reasoned discussion and elaboration.

Wildavsky argues throughout his work that the dominant method of policy analysis, the "rational paradigm" which orders objectives, compares alternatives, and chooses the highest-ranking one, "is mistaken as describing either how decisions are or ought to be made." Wildavsky claims, with characteristic understatement, that "so much is wrong [with this method] it is hard to know where to begin." He begins, but does not end, by challenging the propriety of first deciding where to go and then deciding how. This procedure is second nature to us moderns; but, Wildavsky claims, it is perverse: "No, where one wishes to go depends on whether one is able to get there." Wildavsky appeals for support to another tradition:

> When my grandfather lost the family fortune, comprised of fifty rubles, he went to see the local miracle Rabbi, Joseph of Slutsk, who consulted mystical works, and told him to collect ten kopecks apiece from his friends and relatives and take it to the train. "But where shall I go?" Grandpa cried. "As far as your money will take you," replied the Rabbi, who knew more about the relationship of resources to objectives than his seemingly scientific successors.

Wildavsky is no miracle Rabbi, but he too provides sound guidance for political analysis and decision.

Some chapters of *Speaking Truth to Power* are previously published essays. This may account in part for the richness of the book —unlike many books, it is not an overblown development of one or two simple ideas. It also makes the book difficult to treat in a brief review. But a group of related propositions are threaded through the sprightly discussions of various topics in policy analysis and politics. The thread unravels along these lines:

—The art of analysis consists in finding problems worth solving and able, in some sense, to be solved.

—Such attempts at problem-solving, however, give rise to new ones, and problems are not so much solved as alleviated and superseded by others.

—Our ability to learn from policies what it is possible to do, and thus what it is reasonable to prefer, may be their most important quality. "[P]references do and should change."

—Therefore "efforts to make organizational considerations an integral part of policy analysis (rather than an afterthought) are essential."

—But there is an inescapable tension between the needs of the organizations which implement policies (stability, predictability),

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and the equally important needs for the skeptical evaluation of policies and for the ability to correct errors.

—The "self-evaluating organization," the joining of knowledge and power, though desirable, is therefore very difficult to bring about, given the limits on our knowledge and power and the tension between them.

—And thus not only do "we all live in a world we never made and must proceed from where we are rather than from where we would like to be," but we never will live in a world we have fully intended to make.

What follows from these propositions is Wildavsky's refusal to accede to the tendency of policy analysts to value "intellectual cogitation" above "social interaction" as a means of dealing with problems. Wildavsky denies that comprehensive and coercive planning, based on an "intellectual determination of what would be just and effective," is generally preferable to the workings of markets or of political processes featuring bargaining and adjustment among the participants. "Planning has failed everywhere it has been tried. Nowhere are plans fulfilled. No one, it turns out, has the knowledge to predict sequences of actions and reactions across the realm of public policy, and no one has the power to compel obedience." This judgment does not lead Wildavsky to disavow "intellectual cogitation;" but it does lead him to urge that "responsible intellectual cogitation" take as its main task "to monitor, appraise, modify, and otherwise strengthen social interaction." Policy analysis would thus use intellect "to help guide rather than replace social interaction."

Wildavsky accordingly tends to prefer that the government reallocate resources, thereby guiding social interaction, rather than trying directly to alter basic patterns of individual behavior; and he approves in large measure of the "strategic retreat on objectives" that characterizes much of the discourse on public policy today. He warns of the difficulties of large-scale bureaucracy, and counsels "a bias toward federalism" where possible. He points out the pernicious effects of today's regulatory state, where in an increasing number of areas we see "politicization without politics," with decisions being made politically and therefore contentiously, but in such a manner or at such a level so as not to foster, and indeed so as to frustrate, the healthy processes of politics—the bargaining, adapting, and learning which allow citizens to perceive the consequences of actions, and to hold accountable those responsible.

But Wildavsky's intention is not simply or even primarily a debunking one. Quite the contrary. Wildavsky claims that policy analysis can help to enhance citizens' autonomy and their responsibility, can help them "develop morally in connecting what they do to what other people want." Wildavsky's quarrel with the dominant "paradigm of rationality" is as much that "it accepts as immutable the very order of preferences it is our purpose to change" as that "it regards as perfectly plastic the recalcitrant resources that always

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limit their realization." Policy analysis can improve citizens' capacity for self-government: "[A]bove all, policy analysis is about improvement, about improving citizen preferences for the policies they—the people—ought to prefer." Wildavsky does not blush to say that his purpose has been "to look for longer-range ways to political virtue."

Wildavsky's combination of hard-headed skepticism and high ambition is reminiscent of the Founders of the American regime, who devised institutional arrangements to supply, in part, the defect of better motives and enlightened statesmanship, but who did so for the sake of vindicating "that honorable determination, which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government." Wildavskian policy analysis is in the spirit of the American regime, and should therefore be attractive to those who cherish the regime. But it is not entirely unproblematic. Its problematic character follows from a tendency to usurp the place of, rather than merely supplement, political thinking, and from the limits of the "pragmatism and empiricism" in which he says "policy analysis has its foundations."

In the modern welfare state, politics tends to be reduced to public policy, and policy analysis thus tends to become the whole of political thinking. This is neither wholly pernicious nor wholly foreign to the intention of the Founders; but it is not altogether healthy. Politics, in the largest sense, has to do with the formation of good character among the citizenry, and of an estimable way of life for the community. Wildavsky realizes this, and accordingly makes high claims for policy analysis: "Policy analysis is about learning what to like. . . . Individual moral development requires a balance between autonomy and reciprocity, citizen and community, which, at the public level, is the task of policy analysis." But policy analysis cannot, I believe, accomplish the task of statesmanship, though it may be a necessary aid to statesmanship; yet our tendency to transform all politics into policy leaves us with no other manner of political thinking than policy analysis. This claim may seem an exaggeration; but at the very least, resources are scarce, and such claims for policy analysis as Wildavsky's will lead to a focus on training policy analysts in graduate schools of public policy, like the one whose principles Wildavsky outlines in an Appendix, rather than on educating political men.

"Policy analysis is creating and crafting problems worth solving." The world of policy analysis, the world of public policy, is a world of problems to be solved and difficulties to be dealt with as well as is possible. But politics is more than solving problems, more even than solving them in such a way as to permit citizens to develop morally. In politics one looks up to a standard to which one aspires as well as down at problems one seeks to resolve. Wildavsky's pragmatism and empiricism produce a far superior brand of policy analysis than doctrinaire moralism or doctrinaire scientism; but insofar as he seems to acquiesce in, and even to herald, the ab-

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sorption of politics in policy, his approach is disquieting. His pragmatism and empiricism lead him to urge that "policies would be considered not as eternal truths but as hypotheses subject to modification and replacement by better ones until these in turn are discarded." He immediately acknowledges the limits of such an approach: "Yet dogma is indispensable; without taking some things for granted some of the time, everything is in flux so that nothing comes amenable to examination." But the "dogma" is ultimately subordinate to the skepticism, as politics is understood as the development of better policies which will allow us to replace more serious problems with less serious ones. To his credit, Wildavsky acknowledges the possible corrosive effects of policy analysis on the "dogmas" that are the basis of social trust. He notes that skepticism is a solvent which may "corrode ideals"—I would say virtues—while putting in their place nothing but "a false god, namely itself." But Wildavsky's response to this danger is little more than this: "In an aspiring democracy, the truth we speak is partial. There is always more than one version of the truth and we can be most certain that the latest statement isn't it. This is not only democracy's truth, it is also democracy's dogma." This may be contemporary democracy's dogma; it is only a part, and perhaps not the most important part, of democracy's truth.

According to Wildavsky, there is no one best way to achieve our objectives, and our objectives should not remain "unaltered or unalterable." This is sensible on the level of policy objectives; it is not, I believe, fundamentally true on the level of political objectives, nor does our regime claim this as true. The important and beneficial truths of Wildavskian policy analysis need to be protected from the temptation and the tendency, to which Wildavsky to some degree succumbs, to allow policy analysis to try to encompass all of politics.

How much success is Wildavsky likely to have in his plea for the recognition of the merits of "social interaction" by contrast with "rational planning"? He has been fighting the battle for some time, with good allies, with some but limited effect; one should not be too hopeful. Indeed, those policy analysts who are coming to perceive, or who are finding it expedient to notice, the narrowness of their approach, are not doing so with the intention of falling in with Wildavsky; rather, some of them seem to be adding a dollop of vaguely Rawlsian ethics to their policy analysis, so as to appear broader—warm-hearted and hard-headed at once. How this conjunction of two narrow approaches will produce a genuinely broad or deep one is not clear. The marriage may seem at first unnatural; looking more closely, one sees it is more nearly incestuous, and its offspring are likely to be feeble-minded. They will allow us to appreciate all the more the art and craft of Aaron Wildavsky.

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The Public Housing Quagmire

ROGER STARR

***Eugene J. Meehan*: The Quality of Federal Policy-making: Programmed Failure in Public Housing.** *University of Missouri Press. 230 pp. $16.50.*

PROFESSOR MEEHAN'S title promises an examination into the national public-housing program, a shaggy mass of laws, often amended and tinkered with, the purpose of which is to house some of the nation's poor families at a level of safety and comfort they otherwise probably could not find in American cities. One might want to know from such a book why the nation should house these families, or which of them it chooses to house, and why it builds homes where it does, and how it proposes to manage the juxtaposition of publicly- and privately-owned housing. These might be considered some of the elements of a public housing policy.

But Professor Meehan gives these questions short shrift. The policies that interest him are those that determine the level of funding provided by the national government to the local housing authorities that build, own, and manage apartments for the poor. And he approaches the oscillating level of federal funding with a mind clearly concentrated on the most practical of criteria. He believes that it is the amount of federal subsidy that determines the fundamental quality of public housing. When in the early days the subsidies were able to cover costs, public housing worked on the whole quite well. When costs outstripped the subsidy level, public housing became a nightmare. The projects deteriorated because their owners, the local authorities, lacked the funds to fix them up. New York's Authority took funds from local government to stave off the housing disaster, and contributed to the financial disaster that overtook the city as a whole.

The advantages of Professor Meehan's straightforward criterion are many. Foremost, he avoids a lot of windy rhetoric and muddled theorizing about such matters as the alleged stigmatization of poor people by their public housing addresses, or about the advantages of home ownership, community morale, and public participation in local policy making. Those interested in a discussion of these questions should direct themselves to the spate of books—in the main extolling the importance of these questions and emphasizing the limitless promise of human communities—that now pour from the graduate schools of planning and sociology. In Professor Meehan's world, the community activists may make lots of noise, but money talks.

It is particularly heartening that such a simple and practical view of public-housing ownership—as more effective than other forms of ownership in dealing with those who otherwise could not pay for housing that meets the governmental standard—reaches us

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from St. Louis. For Meehan teaches in the city of the notorious Pruitt-Igoe project, dynamited by the federal government after about 20 years of increasingly disastrous existence. Pruitt-Igoe has been accepted by most casual observers as proof positive that public housing does not work. It has been "proof" not only to systematic friends of private ownership and the market. Even such case-hardened liberals as the late Robert Kennedy and his staff viewed Pruitt-Igoe as the last word needed on the defects of public ownership.

Those who have condemned public housing (and it must be admitted that Pruitt-Igoe is not the only reason for condemning it) seldom bother to understand its governmental or financial organization. First, the projects must be owned by organs of local governments, authorized to borrow from the public and to build and operate housing projects for poor people as defined under local laws. Projects must be exempted from local real-property taxes, but are entitled nevertheless to all the municipal services given the owners and residents of fully taxpaying properties.

The federal government since 1937 has helped the local authorities build low-rent projects by adopting an essentially simple formula that appears so complicated that most critics do not bother to unravel it. The formula is based on the notion that if the federal government pays for the entire cost of developing a government-standard home, the low-income tenants will be able to pay all of the costs of operating it. In fact, the law provides that excess rents, over all costs and the reserves that housing authorities were permitted to establish, must be handed over to Washington.

In the early days of public housing, just before and during World War II, the formula worked out very well. Families moved into public housing when they were earning very low wages; as the economy accelerated, they increased their earnings, both in base pay and overtime, and were required to pay rental surcharges based on a percentage of their income. Some projects were used for war worker housing from the day they opened. Unfortunately, as Professor Meehan points out, the surplus receipts of the authorities were not used to build up reserves adequate for the difficult days ahead, and in the postwar economy housing costs rose more quickly than the earning levels of those who remained in public housing. This occurred in part because the public-housing tenants who earned the most money moved into the private sector—sometimes because they preferred to pay less rent even if it meant less sound housing, and sometimes because they were able to afford to own homes.

Professor Meehan is surely correct when he complains that the Pruitt-Igoe disaster—which followed the successful operation of a number of earlier projects in St. Louis—was the result of the refusal by Congress to notice that the economics of public housing had changed. The federal desire to minimize the basic investment in public housing—manifested from the first by the requirement that

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"residual receipts" be turned over to the federal government instead of being allowed to accumulate as reserves for maintenance, replacements, and rental shortfalls in the future—meant insufficient funds to build new projects of decent quality. Thus, Professor Meehan argues, the main reason for Pruitt-Igoe's trouble was that its buildings were put together of cheap materials, and by high-cost labor that was grossly underproductive. The roofs and the mechanical systems—heating, plumbing, electricity, elevators—began breaking down immediately after residents moved in. Smaller hardware items, like the fasteners on kitchen-cabinet doors, broke the first time they were used; bigger and more serious defects soon revealed themselves.

Unfortunately, Professor Meehan draws from this a conclusion that seems impractical. The reason for the low-construction-cost limitations per rental room fixed by Congress and administratively reinforced by a limit on the total cost of development of each apartment, he claims, was that housing the poor was not the sole objective of public housing. It was also intended to put construction workers to work, give private industry opportunities for expansion, and clear slums. Yet it seems ingenuous to believe that a public housing program that did not serve several purposes other than that of housing the poor could ever make its way through Congress or be accepted by the people. And even if Congress did support a program with no benefits to any group other than the target population, would a limit not be placed on the cost? Moreover, in so large a nation, in which price and living conditions vary so widely, popular support of a housing program would be impossible without some guarantee that the costs will not be excessive and that people who do not need the help of government housing will not get it. A fireproof public-housing apartment in New York City, in effect is given free to a tenant who promises to pay for its upkeep—and payments can even be made with welfare benefits. Yet such an apartment costs more to build than an ample middle-class ranch house in the West, and far more than the median cost of all new houses constructed in the United States.

WHAT Professor Meehan means when he writes of a "programmed failure" of public housing is the refusal of Congress to recognize that families living in the projects in the 1960's were unable to pay enough rent to cover the operating costs. *Congress, and much of the interested public, tended to believe that the main trouble with public housing was its ownership, not its economics.* Instead of trying to solve the economic problems of projects built inadequately and maintained without sufficient funds to do the job right, friends of public housing sought a substitute for the public ownership. Meehan connects their impulse to the common wisdom of the times:

> Major changes in public attitudes towards society and public property occurred everywhere in American society in the 1950's and not

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among the black poor alone. . . . Such changes in attitudes and values tend to influence community affairs indirectly, altering the climate of opinion and with it the norms of acceptability. By doing so they exert pressure on those who operate established institutions. The housing authority could no more escape the trend than could the local school. . . . For years it had concentrated on providing housing services in the very narrow sense of the term. . . . It had been little concerned with the social, psychic, or even the economic dimensions of the tenants' lives. . . . [G]iven the authority's lack of resources, it is doubtful that it could have satisfied either critics or tenants even given the best will in the world.

The embittering fact is that housing authorities, including the St. Louis Authority, were pushed to provide their tenants with services and attention never before part of the housing contribution. Three forces gathered to impose the new demands: the public, the courts, and the Congress. The authorities were being punished for not being privately owned in the first instance.

In St. Louis the public fight against the Housing Authority took the shape of a long-drawn-out rent strike, in which a minority of the tenants participated. Nothing could have been more deadly to the Authority, or caused greater damage to the projects than the cutting off of a large part of the rental income—the only funds with which to meet operating expenses. But the public seemed to sympathize with the strikers—largely, one suspects, because of the suspicion which the Authority itself engendered. When the strike was settled, a complicated—and, to Meehan, distasteful—mixture of outside management and "tenant participation" made little headway in humanizing the projects. Without more money, there could be no serious "humanization," a process that must surely begin with the heating and plumbing systems starting to function as they are expected to.

The courts have played an important role in the war against housing authorities by intervening to make more difficult the already dismaying task of ridding the projects of multi-problem families who simply destroy the surroundings for their neighbors. The courts have repeatedly stepped in to prevent authorities from becoming authoritarian, although the common root of noun and adjective should suggest that an authority that is not at least somewhat authoritarian is not discharging its responsibilities.

But to Meehan the least forgivable attack on the housing authorities came from the Congress. He has excellent grounds for making that statement. Senator Brooke launched one of the most effective attacks when he added to the 1969 National Housing Bill a rider called Brooke I (he added Brooke II in 1971). Brooke I simply forbade public housing authorities to charge tenants more than 25 percent of their income—as though the rental charges were the result of cruelty or insensitivity on the part of the housing authorities, rather than the inevitable result of a financial plan under which all non-construction costs were funded from the rent roll.

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In those states that issue welfare families two allowances, one for all living expenses excluding rent and another for the rent itself, the Brooke I amendment encouraged a reduction in the rental allowance. That did not help the state treasuries very much, but it harmed the authorities immensely. The 1971 Brooke II amendment remedied this by forbidding states to reduce welfare allotments as a result of Brooke I. This measure gave a small bonanza to welfare families living in public housing, but did nothing to help the authorities cover their operating expenses.

Meehan criticizes even more severely the effort to clip the powers of the public authorities and to encourage what he calls the "privatization" of public housing. One change in the law in 1965 permitted housing authorities to lease apartments in privately owned buildings and re-let them to tenants eligible for public housing. Meehan's anger is aroused by the direction of this change in the law. It is, as he puts it, evidence of a tendency to move away from public to private ownership in the absence of any proof whatever that it is the public ownership—rather than the economic scheme or the caliber of the tenancy—that is responsible for the disasters too many assume to be characteristic of the program as a whole.

Meehan's scorn is aroused by all of the complicated devices tried by the federal government in its effort to supplant public ownership. The first was "turnkey" housing: The authority would own the new projects, but instead of specifying their features in detail, it would contract for the purchase of housing built and designed by, and on behalf of, a private owner. To some extent, the turnkey method may have sought a way around the Davis-Bacon Act, which in effect requires that union scales and union work rules be adhered to on every federally financed construction project. In that sense, turnkey construction may have been more economical than direct public contracting, but, clearly, the economy resulted from the government's ingenuity in finding a way around its own regulations and laws—not from any intrinsic economy in private, as contrasted with public, ownership. In the end the effort merely supplanted the architectural and engineering supervision of the local housing authority over the design and construction of its projects.

By far the most important substitute for public ownership in the provision of low-rent housing has been the Section 8 program instituted by the 1975 Housing Act. It offered to pay the difference between one-quarter of a low-income family's assessable income and the rental of a housing unit, to a maximum that, in some costly areas like New York City, ran to $7500 a year. In addition to the rental subsidies, the Section 8 program, in newly constructed housing at least, frequently requires tax-shelter benefits to stimulate the ownership. Thus the *true* cost can be ascertained only when the cost of the loss or deferral of income-tax payments by wealthy individual investors is added to the cost of the rental subsidies and the cost to local government of real-property-tax reductions or exemptions.

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To Meehan, this diversion of financial resources to forms of ownership that have no intrinsic advantage over the public form constitutes a failure of policy. He sees that a public-housing economics based on the theory that the income of the residents (and hence their ability to pay rent) would rise as fast as the costs of operation, was doomed to failure. Since the projects, by law or due to occupants' wishes continually disgorged the rent-payers whose incomes reflected the inflationary temper of the times, the residents who remained were people who were not part of the work force. Therefore, the projects could be operated at a break-even point only if the federal government provided operating subsidies in addition to the money local authorities received to repay the indebtedness they incurred developing the projects in the first place.

In recent years, operating subsidies have been available to public-housing authorities, but only by means of a complex formula that is intended to encourage those authorities that operate efficiently and to prod the less efficient to mend their ways. The trouble with this complicated formula, and the apparently rational scheme of economic incentives that underlies it, is simple: *It does not work very well.* The less money the weaker authorities have, the more their projects deteriorate; and the authorities that can qualify for more generous operating subsidies barely get enough money to meet the costs of their operations. Gradual deterioration is the inevitable end of this process, and the only suspenseful question is whether the deterioration of any particular project will be slower or faster.

Meehan would apparently be satisfied that the nation had discovered a sound housing policy if the operating subsidies were sufficient to carry the full costs of running, rehabilitating, and maintaining the existing projects, and if the nation continued to build new projects to house the large number of low-income families for whom decent housing in the private market is a mirage. Unfortunately, that prescription falls far short of an appraisal of a serious policy for low-income housing. The basic theory of public housing, the assumption on which it was based, was that it would cater to a group of families whose earnings would be too low to permit them to maintain decent homes unaided. The faces would be constantly changing. Each year some would achieve higher incomes and move out of the projects; others, both young and old, would move in—the young temporarily, the old in many cases until they died or became no longer able to manage their own lives.

Implicit in this vision were several assumptions probably not noticeable even to those who made them. One was that there would *not* be a permanent population never significantly in the working force, and thus largely unaffected by improvements in general wage levels. No one designing housing policy expected that the projects would contain a large and undiminishing mass of people who regarded the projects not as temporary landings on their way upstairs,

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but as permanent homes. Nothing in American housing policy suggests that government is prepared to take responsibility for the socialization of this permanent core of permanently poor people with their apparently high level of social disorganization. Active intervention by government to break the trans-generational cycle of dependency involves a still unacceptable intrusion into spheres of personality and custom. Yet failure to intervene means that housing projects will continue to house a growing number of disturbing families, and the problem they pose will be solved, if at all, by the gradual worsening of the outside housing market—by which more stable working families will be persuaded to enter the projects, as the less stable are evicted.

A second assumption implicit in American housing policy was that the major demographic changes and population shifts in the nation had already occurred. The biggest cities with the largest populations of working poor people would continue to have the largest populations and the jobs that would transmit people from permanent poverty. A form of market activity could be relied on to guide public housing development.

But this assumption has been trodden under by the immense movements of people in the years since the end of World War II, and by the decline of many urban industries. The cities now under the greatest pressure to build housing for the poor may well be precisely the cities least able to offer the jobs that were in the past effective in bringing the working poor out of poverty. Moreover, since the local city is the nexus of public-housing activity, there is no way of building housing against the opposition of the local populations of those areas in which unemployment is lowest and job growth now most promising. Nor can anyone reliably predict whether the projections of future local growth are accurate.

Furthermore, housing policy was based on the assumption there would always be sufficient assets, natural and developed, to construct a great deal of housing that in addition met what were—by world standards—remarkably high criteria of space and amenity. It was assumed that the housing package would intrinsically provide a number of services—such as heat, garbage removal, cleaning, painting. But it was hardly to be expected that in the fullness of time such services would be affected radically by inflation, so that their costs would rise much faster than the incomes of most of the residents.

It was assumed, finally, that tenants would pay their rents regularly, and that the basic difference between the rental transaction and the customer-vendor relationship in which people buy food and clothing would somehow escape politicization. It didn't, and those who formulate housing policy must realize they are dealing with a volatile, explosive relationship. People hate to pay rent in every country of the world. (In the socialist countries, they pay rent in disguised form even when they buy shoes, because the apartments are rented at non-remunerative levels and losses to the government

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are made up by more profitable commerce in articles whose prices do not provoke the same irritations.) It seems doubtful that any state in the union that has experienced the political difficulties common in cities such as New York and Professor Meehan's St. Louis, would voluntarily expose itself to the real political risks of assuming the role of landlord.

In short, a government that decided to do something—on whatever scale—to house better our country's poor or even its middle class, would have to decide in advance that it will keep its rental increases within a stated limit *no matter what happens to the operating costs of its developments.* It would have to face up to funding the deficits that will result: by taxation, by overcharging for other goods and services it supplies, or, God save the mark, by inflation. No government as yet has been prepared to confront the housing problem in these politically unsavory terms. Before any does, it will look at the size and significance of the housing deficiency of the poor, and decide whether the continuation of the defects or the path of amelioration offers the greater threat to a government elected by majority vote.

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The Press and The Media

MICHAEL CORNFIELD

***David Halberstam:* The Powers That Be.** *Alfred A. Knopf. 736 pp. $15.00.*

***Herbert Gans:* Deciding What's News.** *Pantheon. 335 pp. $12.95.*

***Michael Schudson:* Discovering the News.** *Basic Books. 228 pp. $10.95.*

THE incredible sequence of events that culminated in President Nixon's resignation invited, among other things, a thorough reconsideration of the power of the press. It appeared that the President had become incapacitated by a mediated explosion of public disapproval for his actions, that he was compelled to relinquish his post because an impalpable sentiment of distrust spread throughout the nation that challenged his right to continue in office. Yet strangely enough, the challenge bore little relation to public policy. The opposition to Nixon drew its strength from a series of crime reports. While the crimes touched serious partisan and international issues, the connection was tortuous, tenuous, and in the end indecisive. Indeed, the crimes themselves mattered less than the way they had been misrepresented by the White House and then exposed by members of the press. However, it was not *the press*—that

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is, those persons who spend their lives covering politics and its practitioners—but "Watergate," as it became finally a symbolic message, that triggered the constitutional crisis and the Nixon resignation.

The symbolic aspects of Watergate deserve scrutiny because they were relayed along a new route for political communication. The advent of the electronic media has conferred a spectacular power upon a few press organizations, the Presidency, and some occasional individuals: the power to get massive, instantaneous attention from a national audience. The contours of this power remain largely a mystery. No one knows exactly how getting people's attention relates to holding it, or to persuading them of a certain idea's importance, or to convincing them of the necessity of acting upon that idea. Like most technological innovations, the new media often defy analysis and enhance nothing so much as the modern feeling of collective confusion. Yet these paths to political influence can work with astonishing clarity and force. As shortcuts to public attention, they tempt political figures away from traditional methods of advocacy—such as the dialogue, pamphlet, rally, and plebiscite. In doing so, these media bring a myriad of new expectations, frustrations, and diversions to the world of opinion and debate. As the wind of our social and political environment, mass-media transmissions whisper one moment and shriek the next—buoying hopes, smashing plans, shifting directions on those who would lead or be led.

I want to focus on the mass media in particular reference to the national press corps—the writers, editors, and owners who report on and sometimes try to affect the course of American politics—in order to show that two concepts ought to be kept distinct. By "press" I refer to *people* regularly engaged in political communication. By "media" I refer to the *technologies* and *techniques* they and others employ. The mass media under discussion will be network television and radio, the major news weeklies and dailies, and film. The distinction is necessary because I think the press can no more harness the media than can any other social institution. There do seem to be some arenas, especially the electoral, where press proximity, familiarity, and quickness amount to an advantage in media use. But this advantage looms large only for those political outsiders, the budding candidates and inchoate opinion groups, who want a fast track to respectability. The enduring concerns of politics and the serious factions that voice them do not need the press for access to the media. If anything, the press suffers along with the outsiders in the competition for public attention. The great bias besetting the new media diminishes politics as a human activity in relation to those other attendants of the airwaves: the entertainers and the advertisers.

One bothersome trait of mass-media politics lies in the way its adherents tend to insulate themselves from sophisticated, literate versions of history. They rely instead on Mass Media History,

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a loose concatenation of lingering images, phrases, and sounds associated with the interaction of Important People at Famous Places. Mass Media History makes regularly scheduled stops in New Hampshire, reaches summits at Camp David and Peking, and pops up sporadically on the Washington Mall. It is a woefully inadequate account of politics as it can be known. David Halberstam puts Mass Media History down on paper in *The Powers That Be*. In tracing the rise and fall (or institutionalization) of some persons who made media history, Halberstam adopts Hollywood's overblown, if vivid, style. His theme and tone are as consciously epic as Francis Ford Coppola's. The crosscutting among four stories—those of CBS, *The Los Angeles Times*, *The Washington Post*, and *Time* magazine—is vintage D.W. Griffith. Characters make spectacular entrances and wait several paragraphs for applause appropriate to greatness; the *Post's* Phillip Graham descends a grand staircase ("He was the incandescent man. . . . the Sun King") while his wife receives the heroic loner treatment ("Kay. She had sat in the background all those years . . .").

Halberstam's sedulous and often moving reportage is betrayed by his concessions to the American cinema. Since the characters must be larger than life, they usually draw historical credit well beyond their due. Introducing the Chandler family, who own *The Los Angeles Times*, he claims that "the city is horizontal instead of vertical because they were rich in land, and horizontal span was good for them, good for real estate." Well, fear of what earthquakes would do to skyscrapers had something to do with it, too. Harry Chandler and his father-in-law, Harrison Gray Otis, undoubtedly played major roles in Los Angeles' business community's violent triumph over labor organizers during the early years of this century. But involvement, even centrality, is not omnipotence. If the Chandlers "did not so much foster the growth of Southern California as, more simply, invent it," then why did they invent opposition to their plans? Fortunately, Halberstam provides enough detail about the family activities to discredit the hyperbolic "establishing shots."

The long, interweaving profiles that comprise *The Powers That Be* personalize ideas as well as actions, so that when two characters clash, there are usually dialectical overtones. For Halberstam, actions not only shape history, but prove points. Too often, he grinds this fictional device into pulp. For example, Henry Luce of *Time* is said to embody a tension between curiosity and ideology. Luce's star reporter of the 1940's, Theodore H. White, shares this trait, as he does Luce's strong sense of personal efficacy. But whereas Luce's political interest in China blots out his inquisitiveness with regard to the revolution occurring there, for White the priorities are reversed. Thus Halberstam sets up a dramatic confrontation: two personalities, two abstract qualities of mind, two careers, two nations, and ultimately two versions of history, with a vast, potent readership in the balance. The script is so cumbersome nei-

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ther player can win. The standoff is overwhelmed by the complexity of the tale.

And so it is with much of *The Powers That Be*; as a history of mass media, it exhibits the flaws of Mass Media History. For example, a thesis rolls around at page 446, only to expire at central casting:

> Both the Presidency and the national press had been the beneficiary of most of the major changes in the society, the new technology that produced an explosion of communications and also centralized power, the rising education level, and the new place of America in the world. . . . Washington was a Presidential town and a journalist's town.

There is probably considerable truth to this idea, but like any other historical concept, it requires elaboration and evidence. Unfortunately, human bodies capable of animating it just don't exist, so the thought vanishes two pages later, and we return to the personality parade.

As the two heavyweight institutions square off for the big finale at Vietnam and Watergate, Halberstam appears to have painted himself into a corner. The Powers That Be are now faceless members of the Fortune 500. The reporters worthy of celebrity status have already published their personal accounts. Even the film has been made. Nor can Halberstam's generalizations sustain the narrative alone—and alone they would be, since the author supplies scarcely any corroboration in the form of excerpts or references to existing documents.

Perhaps the situation obliged him to abandon history for a simple description of press-government relations during the Johnson and Nixon years. Whatever the rationale, the rest of the book is quite marvelous. Halberstam peels off theatrical pretension and trusts the intrinsic value of his material. Surprisingly, he has found some new and striking aspects to the coverage of Vietnam and Watergate, enough to make the book's last 300 pages a mother lode for students of the subject. And since the four media institutions now compete with one another for scoops, the crosscutting technique finally fits the content.

A comment about James Reston describes as well the uneven quality of *The Powers That Be*. "The more Reston in his columns ventured into the world of theory and great ideas," Halberstam comments, "the more awkward he seemed; the closer his columns stayed to the reporting he had done that week, the stronger they were." When Halberstam theorizes, he falls into a reductionist trap that frequently ensnares the press and media—ascribing causality for political events to those figures controlling the channels by which the events become known to the public. Despite this major problem, when the author unscrews his 70-millimeter lens *The Powers That Be* contributes notably to our understanding of the generational and occupational dilemmas that pervade the world of the political journalist.

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We learn more about the difference between the press and the media in *Deciding What's News*. Like Halberstam, Herbert Gans has examined four major media organizations (CBS, NBC, *Time*, and *Newsweek*) in hopes of discovering how they affect American life. He concerns himself with "considerations," or "the unwritten rules journalists apply" in determining the availability and suitability of news. The book resists summary, partly because Gans builds a complex, exhaustive argument, and also because some of his insights are lost in jargon. Near the end of his work, though, he admits that "if a handful of explanatory factors had to be singled out, I suggest that, of all the considerations, those governing the choice of sources are of prime significance." But which side does more of the deciding, the sources or the journalists?

The answer seems to be that the journalists have decided to let the sources do most of the deciding. By choosing to operate under fierce deadlines and to cover so many topics, the people at the networks and the national weeklies forfeit power to those sources who can help them maintain the pace. According to Gans, the favorite sources tend to be those who generate information, need publicity, and are both geographically and socially close to the mass mediators. Designated representatives of key American institutions dominate this pool of convenient story material, though unofficial, unorganized sources do make infrequent splashes. Within this pool, the journalists prize novel, honest, and articulate messages. Then, after some quick refinements, they pass the "news" along to the audience.

Three main political facets of the national journalist's job may be teased out from a list of functions provided in Gans's concluding chapter. The first, "leadership testing," recalls the self-appointed purpose of Russell Baker's mythical beast, The Great Mentioner. This multiheaded creature, a part of the Presidential-campaign press corps, sorts out electoral candidates for the people's benefit, with dire consequences for any candidate the beast knocks or neglects. The second, "feedback supplying," refers to a reverse service whereby elected officials monitor the media products for "early clues to how the general, or the 'informed' public feels about their actions and statements." The third and most sweeping function involves "nation defining." As much a premise of Gans's book as a conclusion, is the idea that since these communication channels "transmit the only non-fiction that most Americans see, hear, or read," they assemble a meaning for "The United States" on a nightly or weekly basis.

The last concept, and the argument it sires, might help to explain how the word "Watergate" went from the name of an office building to a shorthand expression of political controversy. Did the media who "define" America—the "managers of the symbolic arena," "the barometer of order," and "moral guardians"—nullify Richard Nixon's immense electoral mandate? *Deciding What's News* leads the reader to pose such a question, though it fails to show how it

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could be answered. Gans does suggest that these abstract roles simultaneously encourage and fortify a peculiar, defensive form of political advocacy—thou shalt not corrupt the system—that sprang to life during the Nixon years. But, like Halberstam, he eschews specific references to or excerpts from the products of this vaguely Progressivist journalistic ideology.

A better understanding of this ideology is gained from reading *Discovering The News*. Michael Schudson gracefully whisks the reader across 140 years of American history to survey "the relationship between the institutionalization of modern journalism and general currents in economic, political, social and cultural life." Schudson accomplishes this ambitious goal in a sketchy but thought-provoking book. In lieu of a full exposition, he weaves quotations from famous intellectuals with landmark firsts of newspaper history.

Schudson cites as the first of four stages of American newspaper development the Jacksonian decade, the 1830's. Echoing such writers as William Appleman Williams and Richard Sennett, he locates the birth of the news in the transition from community to society:

> . . .'community' was the world of the Brueghel paintings of peasants —a group of people which, at work or at play, was at one with itself. In contrast, 'society' was the rather grim world of the city, the stranger, and the individual.

The newspaper emerges as the emblem of the modern city. The reporter becomes its archetypal "deracinated stranger," observing social life from the fringes, while the editor—a repository of urban experience—rises to embody a hard-nosed wisdom.

To frame the second stage Schudson applies to news the classic dichotomy between upper-middle-class reason and working-class desire. Two news genres become manifest. One approach, nurtured in such newspapers as *The New York Times*, venerates information and encourages reform. Journalists pursue, collect, and classify facts as the scouts for a nascent social science, forging a style that reached its idealized height during the Progressive era, when a political agenda imbued with moral purpose folded into the reportorial technique. Meanwhile, at such papers as *The New York World*, a competing genre emphasized the artistic qualities of news writing. This tradition in which "the story's the thing" seems never to have attained the quasi-ideological status of its competitor.

Stage three follows World War I. The depressing, unfathomable nature of the war, as well as the rapid spread of business propaganda, transformed the information-story dialectic. Journalists retreated from the idea of an observable world; their "naive empiricism" was supplanted by skepticism. Two new and competing approaches evolved: "objective" and "subjective" reporting. Schudson uses Walter Lippmann as a spokesman for objective reporting. But Lippmann's platform, the syndicated column, actually marked a

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concession to subjectivity even as its author espoused a contrary philosophy. Lippmann argued that self-denial and dispassionate professionalism legitimized the writing of newspaper copy. Unfortunately, the standard such scruples serve is seldom easy to see, and the practical definition of objectivity too often means little more than this: If many reporters profess something, it stands a good chance of being true.

The objectivity standard suffered especially in the 1960's, the final period Schudson discusses, when subjectivity made a brash comeback in the form of journalism's "advocacy" and "personal" genres. The former traffics in leaks and critically pores over reams of official documents. The latter distills impressions in search of microcosm. Neither accepts the objectivity of writers who ally with the big institutions dominating American life, and thus both share an interest in penetrating the facades of public relations—a glaring sham now that the government has joined the private sector in attempting to manage news.

This fourth stage spells trouble for Schudson's developmental framework. Three kinds of reporters (objective, personal, advocacy) won't fit into a dichotomy, and *Discovering The News* promptly stumbles as it reaches Watergate. Schudson places *The Washington Post* investigatory team into all and none of the categories. The book ends in a muddle, thanks to a crucial mistake that pertains to its starting point. For Schudson ignores the American Revolution and the first years of the republic. The exclusion of Franklin, Jefferson, Paine and the *Federalist Papers* from a purported "social history of American newspapers" vitiates the subtitle's claim and casts a lengthening shadow over the entire design of the book. Perhaps because the argument tracks the concept of *news* back to its origins, the author neglects the singular importance of *the press* to the very emergence of the nation, and he gives short shrift to the ensuing partisan press as well.

For the idea of publicly spirited journalism never really disappears when the partisan press is eclipsed by the penny press (the first mass medium). In fact, it reappears in the book under different names (Progressivism, the syndicated column, advocacy journalism) while making its own adaptations to evolving America. Political journalism reaches beyond the news. It contains an argument about the future, and embraces both reason and desire, objective facts and subjective interpretations. Indeed, its practitioners and readers and sources may be construed as a community of sorts, albeit a more fractious, artificial, and financially comfortable one than Brueghel's peasants formed.

Another good reason to keep the words "press" and "media" straight, therefore, is to lift the fog surrounding these powerful but deferential, highly visible yet self-effacing, groups of people. We need to develop a vocabulary in political thought that distinguishes among machines, messengers, and message senders. We might go further and borrow from communications theory, which utilizes a

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five-part model for analysis. Roughly adapted, this would entail studying the message sender, the first exchange (between source and journalist, which Gans studies), the communications channel, the second exchange (journalist to audience), and the audience itself. Perhaps, too, it would be worthwhile to revive the Aristotelian distinction between rhetoric and dialectic.

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What's Wrong with History?

MICHAEL NELSON

***Edward B. Jenkinson*: Censors in the Classroom: The Mind Benders.** *Southern Illinois University Press. 154 pp. $12.50.*

***Frances FitzGerald:* America Revised.** *Atlantic-Little Brown. 218 pp. $9.95.*

***Oscar Handlin:* Truth in History.** *Harvard University Press. 415 pp. $17.50.*

THE aspect of his dystopia that George Orwell himself found most frightening—"more terrifying than mere torture or death"—was personified in the occupation of his protagonist, Winston Smith. Smith spent his days at the Ministry of Truth "rectifying" stories that had been "malreported" in old editions of the *Times*. Through the efforts of people like Smith, "Day by day and almost minute by minute the past was brought up to date" with current Party dogma. "All history was a palimpsest, scraped clean . . . as often as was necessary." That Smith himself often could not remember the old version of an event after he had altered it for posterity was the best evidence of all of the truth of the Party slogan: "Who controls the past controls the future; who controls the present controls the past."

The censorship of unpleasant truths about our history is an activity we ordinarily associate with the right in this country. There is some reason for doing so. In the late 1930's, for example, a widely adopted grammar-school textbook series on American civilization was abandoned by almost all the school systems that used it: The National Association of Manufacturers, the American Legion, and the Advertising Federation of America had ganged up to attack it for containing socialist heresies. Twenty years later, the John Birch Society rose to prominence by crusading against textbooks whose lack of "Americanism" supposedly explained the North Korean success in brainwashing captured American soldiers. And quite recently, according to education professor Edward B. Jenkinson's *Censors in*

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the Classroom: The Mind Benders, there has begun yet another outbreak of right-wing activity in the schools.

Jenkinson's book has many villains, but foremost among them are Mel and Norma Gabler, a Texas couple who head up a nonprofit corporation called Educational Research Analysts. The Gablers and a small staff spend their days reviewing all grammar- and high-school textbooks that come on the market, then writing detailed criticisms of those which, in Mr. Gabler's words, "don't tell students what's right and wrong." Each August they take their objections to the annual public meetings of the Texas State Textbook Committee. The Gablers are easy to laugh at—they objected to one book's statement that "No animal has been able to mold its life or environment in the way man has" on grounds that "Man is *not* an animal"—but last year the Committee accepted their judgments on 18 of the 28 social studies books they opposed. Because Texas is populous, and because its local schools cannot use a book unless the state first approves it, publishers take the Gablers very seriously. Recently, a vice president of Scott, Foresman and Company—the largest of the schoolbook publishers—called Norma Gabler "a very sinister influence on textbooks," adding: "What she wants is not the truth, and when you abandon that, you abandon everything."

Because book companies, and the educators and scholars they publish, invariably are the victims in censorship efforts, one is tempted to rally to their side automatically, if only on grounds that "the enemy of my enemy is my friend." But in truth, a healthy dose of another rule for living—"physician, heal thyself"—may be more appropriate, in light of a recent *Wall Street Journal* account of the writing and selling of an eighth-grade history text by none other than Scott Foresman.

The text, called *America! America!,* originated in 1973 not with a clarion call from the company board room to tell students "the truth" about their past, but with a massive market survey designed to find out what the public was willing to let its kids hear. The survey discovered that people were thirsting for a book "with more variety exemplifying the pluralism of America." Scott Foresman then set out to find authors willing to write one. The process by which it did so was not unlike ticket-balancing at a political convention. The company was looking for people who would write to the marketers' formula for the book, but it also wanted a nice mix of college history professors and public school administrators, men and women, maybe even a Hispanic to appeal to the New York City school board. Scott Foresman thought it had scored a real coup when it signed up a Texas historian—the state's textbook committee is partial to Texans—but he later quit because, according to company vice president Landon Risteen, he wasn't "willing to let us run the show."

The other authors were more compliant, however, and in a couple years put together a manuscript full of black cowboys, Chicano grandmothers, flower children, even a 17th century woman pirate

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named Zoabinda. At the same time, awareness of the Texas influence—"They hang over our heads all the time," says Risteen—compelled them "to try to give the book as nationalistic a flavor as possible." Company editors then rewrote the manuscript to weed out big words and long sentences. When *America! America!* came out in 1977, it sold quite well. There were, however, some rumblings from the hinterland about a section on the counterculture, so that part was cut out of the 1979 edition and replaced with one on discovering family roots. "We don't want to get complaints from anybody," says Risteen.

That may not be as frightening a credo as "Ignorance is Strength," but in practice it can amount to roughly the same thing. When the order to rewrite the past to conform to present-day preference comes from market surveys and interest-group lobbying, the querist after truth becomes a bystander. One would like to think that the *Journal* was sensationalizing—picking out the single company that develops textbooks the way networks develop situation comedies.

FRANCES FITZGERALD suggests otherwise. FitzGerald, as it happens, talked not with one, but dozens of people in the textbook publishing business in the course of researching *America Revised*. Even at that, she did not blanket the turf—though the demand for textbooks below the college level is only about $750 million a year, some 400 companies compete for it. From her investigation FitzGerald surmises that the effect of this competition has been not 400 flowers, but 400 variations on the dandelion. Not just Scott Foresman but virtually all publishers begin their book projects by commissioning an expensive market survey or, if they want to do it on the cheap, by studying the emphases in the already successful texts. (FitzGerald came upon one editor "doing a line count of the 10 best-selling eighth-grade histories to find out how much space each gave to each major event in American history.") Then, says FitzGerald, they seek out teams of authors "for their prestige or their influence with school boards rather than their skill in collaborating on the writing of histories for children." Such skill is of small concern anyway, since editors do the final writing to make the book conform to mathematical "readability" formulas. (The formulas, another writer found, are such that "To be or not to be" is judged a simpler thought than "Mother has a pocketbook.") In the process of rewriting, FitzGerald notes, textbook editors "may or may not change the essential meaning of the original, but, almost necessarily, they remove all individuality from the writing, homogenizing it so that it is nearly unreadable."

But if *America! America!* is typical of the development and writing of textbooks, it is even more representative in its content. "[A]ll of them," FitzGerald writes, "try to compete for the center of the market, designing their books not to please anyone in particular but to be acceptable to as many people as possible. . . . What a textbook reflects is thus a compromise, an America sculpted and

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sanded down by the pressures of diverse constituents and interest groups."

Infusions of politics into schoolbook history are nothing new, as the examples from the 1930's and 1950's show; it is not as if truth has just now been banished from the Garden. Until 1960, FitzGerald shows, texts were written on the apparent "assumption that all Americans were Protestants—and elected ones at that." She might have added white and male. It was the civil rights movement that caused this to change. In 1962, the Detroit chapter of the NAACP prevailed upon the city's school board to remove a book that seemed less than "anti" in its discussion of slavery. The board not only complied, but began a search of all the other history texts it was using for hints of racism. The effort spread to other cities and was taken up by other ethnic and minority groups, "all of whom claimed, with justice, to have been ignored or abused by the textbooks." The Anti-Defamation League got into the act, a Council on Interracial Books was formed, and other organizations set up research departments to review books. Then, in the early 1970's, the women's movement made a similar set of demands.

No one could argue that some good did not come of all this. Minority-group pressure on school boards led to school-board pressure on publishers and to textbooks more cognizant of the place of minority groups in American history. Sometimes the publishers' responses were silly—Holt, Rinehart and Winston vowed to banish "the founding fathers" in favor of "the founders," and Macmillan instructed editors to weed out terms like "black market." But at least no suburban white child would grow up in the 1970's, as many did in the 1960's and before, with impressions of blacks derived largely from television and lewd jokes.

Unfortunately, because the pressures for change were so explicitly political, the response was political as well: some grease for the squeaky wheel, an effort to defuse the social anger. If minority groups wanted heroes and inspirational accounts of their past enshrined in the public schools, so be it. The result is an odd disjunction of past history and present reality. Recent schoolbooks may be stuffed with the ethnic and racial history the older books were devoid of, but in their idealized portraits of the present day the past is in no sense prologue.

> [They] rarely show a non-white person who is brutalized, dirty, or even poor . . . [B]lacks pictured in current texts wear business suits or lab coats. The same goes for other non-white people. Most of them are smiling. You can find pictures of Chicano farmworkers, but the workers are always clean and look as if they're enjoying their work. They're always smiling at Cesar Chavez. . . . Indeed, everyone is smiling so hard you would think all non-white people in the United States took happy pills.

Another problem with making past history a simple function of present-day politics arises when present-day politics changes, and

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history with it. In 1974, for example, the conservative counter-reformation spread beyond Texas into dozens of communities around the nation, most notably Kanawha County, West Virginia. "Some of the protesters were merely registering conservative objections to what they saw as the excesses of the sixties," FitzGerald notes, but "others went further, and attacked the whole drive for racial equality and women's rights." At least one publishing house yielded by trimming some angry black writers from an already-published school anthology. A more typical response was to preserve the blacks' allotted space in the books, but fill it with less controversial entries in subsequent editions.

What has been lacking in the recent history texts—and what makes the newly won presence of minorities and women in them both so bland and so precarious—is an intellectual base to support the changes that have been made. Their place in history has been proclaimed, but not thought through. Thus, FitzGerald writes, even when "Chicano farmworkers are [shown] struggling, some texts fail to mention the growers. The American Indians are struggling in a void, there being no mention of the historical arrangements between private corporations and the Bureau of Indian Affairs for the exploitation of natural resources on the tribal lands." Textbook discussions of how injustices have developed "resemble a landscape after a neutron bomb has hit, for there are no human agencies left —only abstractions and passive verbs." The only lesson school children reasonably can be expected to learn from this is that social problems have no causes, at least none that they will be able to do anything about. Surely this represents small gain for the groups whose history has been one of mistreatment.

To a large extent FitzGerald blames this lack of intellectual grounding in the new history books on professional academic historians—"perhaps the only group left in the country which does not bother the publishers"—and to a large extent she is right. Historical journals do not review texts and "most scholars do not bother to take secondary-school textbooks seriously—not even when they have a hand in writing them." This last is an especially pointed charge, but when one considers that the school histories of Charles and Mary Beard slight economic influences on the writing of the Constitution, and that Henry Steele Commager's textbook is silent on intellectual history, the charge gains credibility.

YET it is with the historians that FitzGerald rests her hopes. When she complains that "The result [of their inattention] is that on the scale of publishing priorities the pursuit of truth appears somewhere near the bottom," she also is assuming that truth would rise to the top if only historians would give schoolbooks a second glance. Here she may be wrong. In fact, if Oscar Handlin's *Truth in History* is any indication, the state of truth in academic history is not much better than it is in the public schools.

To find out why, we first need to give a bit of attention to terms

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and origins. Truth for Handlin, it should be made clear, is not "Truth"—moral verities or eternal laws of progress written in the record of the past—but simply "get[ting] the record straight." This is a noble goal as Handlin describes it. Facts are not "mere facts" to him; the habits of mind that come from seeking out and analyzing the record so that you "have put the evidence in order, that is, brought it as close as possible to correspondence with the occurrence in the past," are habits that will serve anyone well in any endeavor. (One is reminded of George Bernard Shaw's remark that the historian is safe if he has only one document to rely on, in difficulty if he has two, and hopeless if he has three.) In addition, of course, historical facts establish a foundation for current political discussion, a common currency which people can draw upon.

This search for factual truth was history's *raison d'être* when it took shape as a scholarly discipline in the late 19th century. People had written about the past before then—mostly "gentlemanly scholars, journalists, and litterateurs"—but as an avocation, and chiefly for purposes of inspiration:

> In the interests of what they knew was the larger truth, they were willing to sacrifice literal verity, as when Bancroft urged the engraver to remove the warts from Franklin's nose or when Jared Sparks took the liberty of improving the grammar of Washington's letters. [But] to the scientific historian, the fact was absolutely intractable; whatever flights of fancy his interpretation might take, he accepted the obligation of scrupulous factual accuracy.

Unfortunately, because history arrived late as a scholarly discipline in American universities, it frequently was thrown in with the social sciences. This association with economics, sociology, and political science placed other, somewhat contradictory demands on historians, demands for "relevant" diagnoses of current social problems such as those the social scientists were making. For a long while, historians were able to fend off these demands by saying they were busy enough bringing order to the past, and the lapses of some of their number—sneering discussions of ethnic groups in the 1920's, when restrictionist immigration proposals were in the air, for example—demonstrated the wisdom of this course. But history's continuing institutional status as a social science meant the pressure to be relevant was always there.

In the 1960's, this academic pressure was reinforced by political pressure. Suffice it to say that the same demands for instant, laudatory, ethnic and feminist history placed on textbook publishers were placed on professional historians as well—often by their students. To the extent that scholars consequently had their attention directed to previously slighted areas of study, this was all to the good —certainly Oscar Handlin was not about to object to a revival of interest in ethnic history. In fact, he points out, careful historical studies of, for example, why "the Quakers, once hounded out of Boston, in time became respected citizens there" or why "the

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Quadroons, prominent in New Orleans society early in the nineteenth century, in time became figures of shame," might well have told us something about the nature of prejudice. In addition, though he doesn't say so, they might have laid an intellectual and factual foundation for some decent schoolbooks. But to be done right, such studies would take time, around eight to ten years. And it was always possible that some of the facts they uncovered might be unpleasant or, at the very least, inconvenient.

This was not sufficient. The demands were for "History Now!" of the sweeping, inspirational variety. Many historians complied:

> The tide of print that mounted steadily after 1965 contained much of value, but also a good deal twisted out of shape by the circumstances of composition. Far too often the imperative to relevance obstructed the channels of thought and prevented scholars from making the most of their material.

Looking at Indian history through contemporary eyes, for example, writers were all too prone both to overlook the ancient differences among Indians and to categorize them in familiar, modern terms: "virtuous Yankee yeomen," "communist egalitarians," and so on. As in the schoolbooks, condescension was the inadvertent result. Handlin writes, "The crowning injustice to people of the past who had suffered so much was to falsify their history to gratify the passions of their descendants."

In the 1970's new pressures on historians appeared, this time economic. A surplus of Ph.D.'s turned academic history into a buyer's market. To have any chance at all of keeping a job, young historians found they had to attract large numbers of students to their classes, and publish extensively and quickly. Both imperatives, and especially that of publication, militated in favor of "relevance" above all else. For the publishers historians need to entice, Handlin writes, the "decision whether to print or not to print pivots on the sales estimate," and makes attention to "the gusts of fashion" essential. Evidently this had not changed by decade's end, if the testimony of William Leuchtenberg, Columbia University's De Witt Clinton Professor of American History, is any guide. At a recent meeting of the American Historical Association, he told a *New Yorker* reporter that the subjects on which his graduate students were working included the gay liberation movement, the social history of venereal disease, and the effects of the Second World War on the Indians.

In a sense, then, history has come full circle: The glowing, panoramic surveys of deprived groups that now are being written are not, except in subject, unlike those the truth-seeking history profession originally was created to supplant. Something may even have been lost along the way. The Sparks volumes on Washington at least were stirringly written and fun to read. Historical prose today is more likely to be wooden and dull—another mark of Cain from the

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social sciences, to whose century of pressures history finally seems to have yielded. The professional journals are brimming with highly quantitative articles—"cliometric," they are called—that make them hard to distinguish from sociology journals. These historical studies not only share all the familiar ills of statistical social science, but bear the special cross of reliance on ancient data gathered in times when accuracy was not considered all that important.

The sad conclusion one is forced to draw is that Handlin's academic historians are in no position at all to help FitzGerald's schoolbook authors. Both suffer from the same set of ills, and neither seems on the verge of getting better. The supreme irony, as Handlin points out, is that as modern historians spend increasing time mastering social-science methodologies, they use up much of the time they otherwise could give to subjects outside their narrow specialties and to reading the works of colleagues who study other historical periods. As a result they "often retain through life the impressions implanted by a high school or college text."

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A Most Popular Conspiracy

MICHAEL S. LUND

***Martha Derthick*: Policymaking for Social Security.** *Brookings Institution. 446 pages. $17.95 cloth; $6.95 paper.*

For most of its history, social security was considered one of the most successful enactments of the federal government. Since 1940, when the first government old-age-insurance check was sent to Ida Fuller of Brattleboro, Vermont, the social security system has expanded steadily and now covers 35 million beneficiaries. By 1979, it was paying out $147 billion annually in old-age, disability, and medical benefits. Little criticism accompanied this continuous growth. If an occasional Republican Presidential candidate questioned the program, it was at his peril; social security appeared invulnerable. Its apparent success at treating a needy clientele with increasing generosity while spending little on administration won the praise of many a political science professor to generations of undergraduates. Here was a federal bureaucracy that really worked!

Criticism since the early 1970's, however, has rocked social security's pedestal. Predictions of both short- and long-term deficits in the old-age-insurance trust fund shook legislators' and participants' confidence in the system's finances. Senators report receiving letters from worried constituents seeking assurances about retirement benefits; a recent Harris survey found only 15 percent of employees

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interviewed fully confident social security would be able to pay their benefits when they retire. Economists concerned about the effect of social security on personal savings and capital accumulation have raised questions. Women's groups have attacked the program's unequal treatment of the sexes. Social security is now the object of national debate and a barrage of reform proposals.

But the interesting question is really how so large and well-known a program got by for so long with relatively little controversy. This is the question examined by Martha Derthick, a political scientist and Director of the Governmental Studies Program at the Brookings Institution, in the first thorough study of the politics of social security. Her long but absorbing book not only uncovers the sources of the program's political genius but also provides a helpful perspective on its current troubles.

Derthick examines the historical acceptance of social security from three different angles. She notes first that political conflict over the program has been minimized because of a policy-making system in which participation was restricted and consensus prevailed. In a fascinating account, Derthick discusses the little more than a handful of specialists in key executive, congressional, and advisory positions who dominated social security policy-making from 1935 through the 1970's. Social Security Commissioners Arthur Altmeyer and Robert Ball, HEW administrator and consultant Wilbur Cohen, House Ways and Means Committee Chairman Wilbur Mills, AFL-CIO lobbyist Nelson Cruikshank, and their allies were consistently the prime movers behind the legislative initiatives and resulting expansions of social security's first four decades. This group was distinguished not only by its members' long tenure in important posts, but also by their common zeal for the social security cause. Though serving in different organizations and moving in and out of government, they shared a proprietary attitude toward social security and a commitment to its maintenance and enlargement. With their detailed knowledge of the program's technicalities and their political skill, these self-appointed trustees of social security were able to influence the perception of problems and choices, write in the details of legislation, and pave the way for its passage.

Derthick argues that the President, department heads, Congress, labor, beneficiary groups and other interests ordinarily expected to influence public policy did not take an active role. Elections and public opinion had only indirect effects. "What starts to take shape," writes Derthick, "is in the nature of an intimate family portrait rather than a vast and complicated canvas." The result for public policy was unremitting expansion, restriction of the government's alternatives to the social-insurance mechanism, and a legacy of decisions hard to adapt to changed demographic and economic conditions.

Derthick then turns to a second hypothesis: that social security was nearly incontestable because of the attractions of the program itself. Perhaps the specialists could take so much initiative simply

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because they had an immensely appealing program to offer to politicians and the public. Derthick finds this explanation persuasive also, but not for the reasons one might expect. She does not stress the popular features of social security that might first come to mind—the high yield on contributions, the reduced burden for families in supporting their elderly members, or the moral legitimacy of government providing for retired workers, widows, and the disabled.

The program's popularity was actually due, Derthick avers, to its built-in obscurantism. In the most ingenious analysis in the book, she describes features of the program that tended to hide its actual workings and effects. For example, the small number of initial beneficiaries, and the fresh infusions of revenues that flowed whenever Congress incorporated new contributing groups, gave the impression for years that the program was costless. Benefit increases appeared to be restrained because they came only in small increments. Social security was made palatable to conservatives because of its wage-relatedness and regressive taxation, while at the same time liberals could point to the program's widening coverage and progressive benefits. The promotion of social security as "insurance" assured contributors that it was a program of self-support, not welfare, and that the separate trust fund guaranteed potential beneficiaries a right to "their" benefits by insulating social security from budgetary politics. The program also avoided conflict over the allocation of benefits and costs because it was virtually impossible for any but experts to tell where participants stood in the complex, changing system. In sum, political support for social security came about not so much because the program offered specific provisions that palpably benefited particular groups and therefore encouraged them to exert pressure for more, but because program features reflected certain values and symbols that appealed to many interests and often for quite different reasons.

In probing further the reasons for social security's success, Derthick introduces a third consideration. As social security policies changed, so did the program's politics. With the addition of disability insurance to the social security system in 1956, the passage of Medicare in 1965, and a huge inflation-indexed benefit increase in 1972, partisan debate erupted and rifts opened within the network of policy makers. Although the program specialists desired these major changes, they had become divided among themselves and less able to manage the initiatives politically. In these cases, Derthick concludes, the proprietary elite and its program were unable to obscure the possible impacts of policy changes and to contain political conflict because these major expansions raised "boundary issues." More ideological, open, and partisan politics resulted. Whereas the frequent incremental expansions raised "distributive issues," which concern only the allocation of costs and benefits within existing programs and do not arouse a wide range of inter-

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est groups, major policy changes were accompanied by the perception that the accepted division between government and private action was under attack.

For this reason, Derthick worries more about "distributive" policy choices than "boundary" choices. Boundary issues have an inherent check because they provoke debate and wide review, which in fact tend to exaggerate the importance of the changes at stake. But distributive issues have a more radical potential because clear signals of possible long-range effects are not sent out; opponents and supporters alike can be lulled into uncritical acceptance. In her final chapter, "Keeping Society's Options Open," Derthick proposes ways to open up incremental decision processes. Social security ought to be treated like any other ordinary government program, she advises, and subjected to the same cross-pressures. Though earmarked taxes can still be used, responsibility for the long-term consequences of *ad hoc* increases will be much enhanced if costs are kept visible. This can be done by requiring that any expenditures voted are always covered by revenues. She suggests also that more supervision of the program by "generalists," such as the President's staff, and more attention by the Treasury Department and other agencies besides the Social Security Administration, will encourage the needed diversity of perspectives on social security's effects and foster wider debate.

ALTHOUGH Derthick does not sum up her investigations, she leads the reader to conclude that the basic reason social security's growth attracted little notice is that the activist core of specialists skillfully pre-empted alternatives to their own expansionary designs. But taken together, the book's three parts could support a different explanation of the program's piecemeal expansion. Incrementalism has not been the strategy of a protective elite, but rather the product of a whole set of interests in a political milieu hostile toward using government for purposes other than augmenting private initiative. This climate severely limited the range of options policy makers could realistically entertain, because it produced no other serious national policy options at all, until recently. The specialists stood out in the American context not because they were autonomous, as Derthick believes, but because as conveyers of an international social-insurance movement, they were relatively isolated. The program measures finally enacted were not solely theirs, but the outcome of compromises that diminished public controls in their proposals and exaggerated those parts that had short-term political payoffs.

Consider the readiness of Wilbur Cohen and Wilbur Mills, documented in the book, to reshape proposals to anticipate the objections of potential opponents. We are not told how much they sacrificed, but their pragmatic, consensual style must have at some point changed their legislation considerably as they attempted to win the approval of others. Interests do not have to be actively mobilized, as Derthick suggests, in order to have their influence

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felt. Even after redrafts had been made through "adaptation," Congress still went against the specialists' advice and boosted benefits higher and more often, balked at raising the payroll tax, and rejected general-revenue financing. Moreover, some expansions of the program were sponsored by outsiders to the activist group. The Eisenhower, Nixon, and Ford Administrations undertook new measures within the main, distributive tradition for reasons other than the persuasiveness of the program's experts: for votes, out of moral conviction, and for administrative continuity. The development of American social security into its present form has been a multi-lateral enterprise; credit or blame for its present state must be widely shared.

Such a portrayal of social security policy-making makes sense out of events since 1973. The program specialists have largely disbanded, but *ad hoc* expansions persist, even if they get closer scrutiny. The policy arena has widened much beyond that recommended in Derthick's book. In addition to the Social Security Administration and its Advisory Council, the Office of Management and Budget, the General Accounting Office, the Congressional Budget Office, the Council of Economic Advisors, Treasury, Commerce, the National Commission on Social Security, the House Pensions Task Force, the Universal Social Security Coverage group, and the President's Commission on Pensions have undertaken studies or issued recommendations on social-security-related issues in the last two years. "In the House," one Congressman observed recently, "there are literally 435 different ideas about how to revise the social security program." The issues have broadened to include the coverage of federal workers under social security, the effect of the program on savings incentives, the relationship between social security and private pension plans, and many other "boundary" as well as "distributive" issues. A tax limitation movement may come to bear on scheduled payroll tax raises and social security expansion generally, but continued inflation and a swelling elderly population guarantee there will be no lessening of pressure behind public provision for retirement.

A more exposed, competitive policy-making process clearly has brought more diversity in viewpoints and generalists' perspectives. But what may follow also is heightened interest-group conflict, more bureaucratic politics, and time-worn partisan ideology. The result of all this may be an innovative and coherent pensions policy, or it may be merely unresolvable disagreement. The latter is, as Martha Derthick suggests, what an earlier generation of social security policy-makers and their legitimating fictions helped to avoid.

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This special bonus issue will be devoted entirely to the theme: "The Crisis in Economic Theory." The issue will include an introductory essay by Daniel Bell, and essays by Kenneth Arrow, Paul Davidson, James W. Dean, Peter Drucker, Frank Hahn, Israel M. Kirzner, Harvey Leibenstein, Allan H. Meltzer, Edward J. Nell, Thomas Schelling, and Mark H. Willes. There will be comments by Robert M. Solow, John Kenneth Galbraith, and Martin Feldstein, and a concluding essay by Irving Kristol.

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